Tuesday,
30th November, 1954

LOK SABHA DEBATES

VOLUME VIII, 1954

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EIGHTH SESSION, 1954

LOK SABHA SECRETARIAT
NEW DELHI

LOK SABHA DEBATES

(Part I—Questions and Answers)

LOK SABHA

Tuesday, 30th November 1954

The Lok Sabha met at Eleven of the Clock

[MR. SPEAKER *in the Chair*]

MEMBER SWORN

Shri Subodh Hasda (Midnapore—Jhargram—Reserved—Sch. Tribes):

ORAL ANSWERS TO QUESTIONS

RAILWAY SLEEPERS

***506. Sardar Hukam Singh:** Will the Minister of **States** be pleased to state:

(a) whether it is a fact that over two lakhs wooden sleepers have been washed away recently by the river Chenab from Indian territory towards Pakistan; and

(b) if so, what action has been taken to recover them?

The Minister of Home Affairs and States (Dr. Katju): (a) The estimate of the Jammu and Kashmir Government is that the loss is between 60,000 and 70,000 scantlings.

(b) No action has been taken.

Sardar Hukam Singh: May I know whether all these sleepers belonged to the contractors or any portion of it was owned by Government also?

Dr. Katju: I have no information, Sir.

Sardar Hukam Singh: Did the second river, Ravi, also assist Pakistan in getting some sleepers in this way?

Mr. Speaker: Order, order.

Sardar Hukam Singh: They were washed away in Ravi as well. I want to know whether it is a fact. I am not putting it as a joke, Sir.

Mr. Speaker: The question was whether Ravi was assisting Pakistan?

Sardar Hukam Singh: May I know whether any of these sleepers were washed away in Ravi as well?

Dr. Katju: I have no information.

Sardar Hukam Singh: Is there any agreement, express or implied with Pakistan, or any international convention that goods received in any country in this method must be restored to the owner country?

Dr. Katju: I really must ask for notice of these elaborate questions.

FINANCIAL ISSUES BETWEEN INDIA AND PAKISTAN

***508. Pandit Munishwar Datt Upadhyay:** Will the Minister of **Finance** be pleased to state:

(a) the debts due from Pakistan and since when they have remained unpaid;

(b) what are our claims on different accounts which have remained unsettled;

(c) how do Government propose to settle and realise them; and

(d) what are the dues to which Pakistan has refused payment?

The Deputy Minister of Finance (Shri A. C. Guha): (a) to (d). As the Finance Minister mentioned in reply to a starred question in this House on the 14th May, 1954, the exact amount of Pakistan's partition debt has not yet been determined. This debt is repayable in 50 annual equated instalments of principal and interest commencing on the 15th August 1952. No payment has been made by the Pakistan Government so far. The Finance Minister has been in touch with the Finance Minister of Pakistan in regard to the resumption of the negotiations for the final evaluation of the debt and the settlement of other outstanding financial issues, but so far it has not been possible to fix a meeting. There are a number of claims and counter-claims on either side and until an overall settlement is reached it would be difficult to say which individual claim has been rejected or accepted by either side.

Pandit Munishwar Datt Upadhyay: May I have an approximate idea of the claims and counter-claims?

Shri A. C. Guha: I think it has been mentioned in this House on previous occasions that the Partition debt would amount to near about Rs. 250 crores approximately.

Pandit Munishwar Datt Upadhyay: What is the time that is likely to take to start realising this amount?

Shri A. C. Guha: It all depends on the other side also—their willingness to make the payment. It has not been possible to come to any decision in this matter.

Pandit Munishwar Datt Upadhyay: What is the amount of claim put forward by Pakistan?

Shri A. C. Guha: The amount I have mentioned: according to our calculations is the approximate net amount due from Pakistan Government to our account deducting their dues.

Pandit Munishwar Datt Upadhyay: Is there any amount which has been definitely refused by Pakistan?

Shri A. C. Guha: No, Sir, nothing has been definitely refused, nor has anything been definitely admitted.

DELIMITATION COMMISSION

***509. Shri Krishnacharya Joshi:** Will the Minister of Law be pleased to state:

(a) whether the Delimitation Commission has completed its work; and

(b) if not, what is the progress of work and when it is likely to be completed?

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): (a) and (b). The Delimitation Commission has completed its work in 17 out of 26 States and final orders delimiting Parliamentary and Assembly constituencies have been published. In three States, namely, Assam, West Bengal and Vindhya Pradesh, the last public sittings have been held and the Commission expects to publish its final orders within the next two or three weeks. Its work is in the final stage in Saurashtra, Bombay, Rajasthan, Bihar and Hyderabad and is expected to be finished by the first week of February, 1955. The Commission hopes to complete its entire work by the end of February, 1955

Shri Krishnacharya Joshi: May I know whether the recommendations or proposals of this Commission have been finalised wherever they have completed their work?

Shri Satya Narayan Sinha: With regard to certain States which I have named their work has been finalised. With regard to some States the work is just in the stage of being finalised.

Shri N. L. Joshi: May I know whether the final report of the Commission will be placed on the Table of the House for consideration?

Shri Satya Narayan Sinha: In the Delimitation Act I do not think there is any provision for placing the report before Parliament.

Pandit Munishwar Datt Upadhyay: Is it a fact that the orders passed by the Commission were not based on figures ascertained in the Census?

Shri Satya Narayan Sinha: With regard to which State, may I ask?

Mr. Speaker: Perhaps he speaks about U.P.

Shri Satya Narayan Sinha: Little progress has been made with regard to that State and the matter is under the active consideration of the Government.

Shri Heda: In view of the fact that the multiple that is the proportion between Assembly and Parliamentary seats is different in different States and the reorganisation of the States is impending, is there any policy laid down by the Government to have a similar type of multiple in these States?

Shri Satya Narayan Sinha: I could not follow the question.

Mr. Speaker: It is a complicated thing. I think it is a matter of detail which should be left to the Delimitation Commission.

श्री भक्त दर्शन : क्या यह सत्य हैं कि उत्तर प्रदेश सीमा निर्धारण के सम्बन्ध में कमिशन के सदस्यों और उस के सहयोगी सदस्यों के बीच कुछ मतभेद हो गया हैं और क्या उस के सुलझाये जाने के लिये एक्ट में संशोधन करने के बारे में विचार किया जा रहा हैं ?

श्री सत्य नारायण सिंह : मतभेद जरूर पैदा हो गया था और वह सुलझ रहा हैं ।

SMUGGLING THROUGH WAGAH (PUNJAB)

***510. Shri D. C. Sharma:** Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that a large quantity of goods is being smuggled into India through Wagah outposts;

(b) if so, the number of persons arrested at Wagah during 1953-54 and 1954-55 so far for smuggling; and

(c) the amount realised as fines thereon?

The Deputy Minister of Finance (Shri A. C. Guha): (a) The information available with the Government indicates that there is no large-scale smuggling of goods into India through the Wagah-Attari border.

(b) The information regarding the number of persons arrested for smuggling on the Indian side of the Wagah-Attari border during the period in question is being collected and will be laid on the the Table of the Sabha as soon as possible.

(c) Fines amounting to Rs. 73,924/- and Rs. 12,860/- were imposed during 1953-54 and 1954-55 (upto 31st October, 1954), respectively of which Rs. 296/- were realised during 1953-54 and none during 1954-55. Where the fines have not been realised, the seized goods in respect of which these fines were imposed have not been redeemed by the owners.

Shri D. C. Sharma: May I know what are the main articles that are smuggled from that border into India?

Shri A. C. Guha: Generally, the articles are Indian currency; gold. silver, silver coins, watches, *charas*, fruits, jewellery, etc.

Shri D. C. Sharma: What is the approximate value of the articles that have been smuggled so far?

Mr. Speaker: He means the approximate value of the articles seized.

Shri A. C. Guha: I cannot give the value of the articles smuggled. I can only give the value of the articles seized. In 1953-54, it was Rs. 74,319, while in 1954-55, up to October, it was Rs. 13,968. These figures correspond very much to the amount of fines imposed.

Shri D. C. Sharma: May I know how these articles are disposed of?

Shri A. C. Guha: If the fine is not paid the articles are confiscated and then disposed of by auction.

Shri Heda: May I know whether this smuggling is an one-way affair, or there are any goods smuggled from India to Pakistan, and if so, what they are?

Shri A. C. Guha: It is both-way traffic.

REDUCTION IN CURRENCY

***511. Shri S. C. Singhal:** Will the Minister of **Finance** be pleased to state the reasons for the reduction of currency and the decline in the public money supply since the commencement of the Five Year Plan?

The Deputy Minister of Finance (Shri M. C. Shah): The main reason for the reduction in currency and decline in the money supply with the public in the first three years of the Plan has been the overall deficit in our balance of payments, which is reflected in the reduction in the foreign assets held by the Reserve Bank.

Shri S. C. Singhal: May I know the effect of this reduction on the general economy of the country?

Shri M. C. Shah: I could not follow the question.

Mr. Speaker: He wants to know the effect of this reduction on the general economic position in the country.

Shri M. C. Shah: No depression, not that way. That is not so. Inflationary trends were checked.

Shri S. C. Singhal: May I know what steps Government intend to take to bring back balanced economy in this country?

Shri M. C. Shah: The moment we go on with the developmental work, and the developmental expenditure gains momentum, and some money is there, then there will be more money supply; and that will bring back balanced economy.

Shrimati Tarkeshwari Sinha: May I know what is the percentage of shortfall in the revised investment target fixed under the First Five Year Plan? May I also know that steps Government propose to take to ensure that this shortfall may not occur in the Second Five Year Plan?

Shri M. C. Shah: In the first two years, there was shortfall. In the first year, it was Rs. 178 crores, and in the second year it was Rs. 31 crores. In the third year, there is expansion of Rs. 51 crores. So, there need not be any fear about the money supply.

UNESCO (TRAINING)

***513. Th. Lakshman Singh Charak:** Will the Minister of **Education** be pleased to state:

(a) the number of candidates sent for training from India under the auspices of U.N.E.S.C.O. during the period 1953-54 and 1954-55;

(b) whether any candidates have been rejected by the U.N.E.S.C.O. authorities on any special grounds; and

(c) the number of candidates who came to India for training?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) 1953-54 2

1954-55 3

(b) No.

(c) Seven besides 22 participants in the Group Training Schemes organised by U.N.E.S.C.O. at Mysore.

Th. Lakshman Singh Charak: May I know the subjects selected by the candidates who have gone abroad, and who have come back from those countries?

Dr. M. M. Das: In the year 1953-54, two candidates went abroad. The subject of one candidate was the organisation of Scientific Documentation Centre. He was in foreign countries for six months. He visited U.K., France Belgium, Denmark, Netherlands, Sweden, Norway, Yugoslavia, and Egypt. For the second candidate, the subject was compulsory education. He was in foreign countries for ten months. He visited

Europe and Canada. The subject for the third candidate was heavy electricity.........

شکشا و پراکرتک سلسادهن تتھا
ویگیانک گویشنا منتری (مولانا آزاد) : لسٹ لمبی هے اگر آنریبل ممبر چاهتے هیں تو ٹیبل پر رکھدی جائے اسکی پوری پڑھنے کی ضرورت نہیں هے۔

[**The Minister of Education and Natural Resources and Scientific Research (Maulana Azad):** It is a long list which can be placed on the Table if the hon. Member so desires. There is no need to read out the full list.]

Shri T. S. A. Chettiar: May I know whether these people, who have had this training abroad, have, on their return, been utilised for those very purposes for which they had received training?

Dr. M. M. Das: Yes. They were sent by their employers, *i.e.* the sponsoring agencies, and they are employed under them now.

Th. Lakshman Singh Charak: May I know the names of the countries which sent their candidates for training here?

Dr. M. M. Das: Thailand, Iraq, and Egypt; again, Thailand, Indonesia, Iraq and Peru. The candidates who joined the fundamental education courses organised by UNESCO at Mysore came from France, Holland and Denmark, two from each; and one each from Germany, Austria, Belgium, Norway, Burma and Sweden; two from Liberia, and one each from Afghanistan, Malaya, New Zealand, Indonesia, Thailand, Philippines, Nepal and Australia.

Shri Raghavachari: I have authority to put Question No. 517. May I put it?

Mr. Speaker: It will come at the end.

FRENCH CULTURAL MISSION

***518. Shri T. B. Vittal Rao:** Will the Minister of **Education** be pleased to state the names and qualification etc., of the Members of the French Cultural Mission which arrived in India in October, 1954?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): The Government of India have no information on the subject.

ग्रामीणों की ऋणग्रस्तता

***५२०. श्री झूलन सिंह :** क्या वित्त मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या भारत के रिजर्व बैंक ने ग्रामीणों की ऋणग्रस्तता दूर करने के उद्देश्य से कोई योजना बनाई है , और

(ख) यदि हां, तो इस योजना की रूपरेखा क्या है ?

The Deputy Minister of Finance (Shri A. C. Guha): (a) and (b). 'Relief of agricultural indebtedness' is a State subject under the Constitution. Yet the Reserve Bank of India has been taking interest in this matter from its very beginning. Apart from maintaining an Agricultural Credit Department to study questions of agricultural credit it has been helping the co-operative movements to relieve the indebtedness of the agriculturists by various ways, such as by providing short-term accommodation for financing seasonal agricultural operations and marketing of crops and since recently medium-term loans for the improvement of land etc. to State co-operative banks at a concessional rate of interest and by giving facilities for rediscount of commercial paper of co-operative banks. As a measure of assistance towards long-term accommodation the Reserve Bank of India also purchases the debentures issued by the central land mortgage banks upto a specified limit.

The Rural Credit Survey Committee appointed by the Reserve Bank of

India has just submitted its report to the Bank in which problems of rural indebtedness have received attention along with other aspects of Rural Credit.

Shri Jhulan Sinha: May I know whether the Central Government are aware of the steps taken by the Uttar Pradesh and West Bengal Governments for the liquidation of rural indebtedness and the scaling down of debts, and if so, whether this has led to the shaking of rural credit there?

Shri A. C. Guha: I could not follow to which Government he refers.

Mr. Speaker: U.P. and West Bengal Governments.

Shri A. C. Guha: Almost all the State Governments have taken steps to scale down the rural debts, and to arrange for long-term instalment payments.

Mr. Speaker: His point is whether this has led to the shaking of credit facilities there.

Shri A. C. Guha: This has led to the wiping out of a large amount of rural indebtedness, and making the payments within the financial capacity of the agriculturists.

Shri Jhulan Sinha: May I know whether Government are aware that the credit in these States has been shaken, and that the debtors are finding it difficult to have money from the moneylenders, while Government themselves in their turn are not coping with the requirements of the debtors?

Shri A. C. Guha: As regards the contention that the hon. Member is making now, I think it is almost out of date now to plead that the private moneylenders should be allowed free hand in giving money to the agriculturists. Anyhow, that is a policy matter. The Government's policy is to have more institutional credit facilities for the agriculturists, and on that line. Government are proceeding.

Shri Jethalal Joshi: May I know how many land mortgage banks are there in the country, and how far they have been able to liquidate the debts and redeem the houses and the lands taken from the agriculturists?

Shri A. C. Guha: As for the number of land mortgage banks, I should like to have notice. But I can admit that I do claim that the land mortgage banks have been doing very considerable work in liquidating rural indebtedness. Anyhow, that is a matter which is under the constant consideration of Government, and gradual progress is maintained in that matter.

Shri Jethalal Joshi: What is the amount of advances by the banks for agriculture, and how does it stand in proportion to the amount absorbed by industry? What is the percentage?

Shri A. C. Guha: I think the commercial banks are not much in a position to lend money for agricultural credit, except perhaps for some tea gardens which, technically of course, may come under agriculture, but which I do not think Members are so much concerned with.

Shri T. S. A. Chettiar: May I know whether the Government are aware that the Madras Government has declared a moratorium for rural debts and that has resulted in the shrinkage of facilities for rural credit? May I also know whether Government are taking any steps to meet the need of the rural areas in the matter.

Shri A. C. Guha: The same difficulty was mentioned by the Member who put the question. There might be some difficulty in the transitional stage; anyhow, we shall have to face that difficulty.

GOVERNMENT EMPLOYEES

***521. Shri Bheekha Bhai:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether it is a fact that certain Government employees working in the Central Secretariat have been given two increments in three years while these increments are denied to employees of similar categories working in the Attached and Subordinate Offices in Delhi;

(b) the reasons for this discrimination; and

(c) whether Government have received any representation in this respect?

The Deputy Minister of Home Affairs (Shri Datar): (a) and (b). In accordance with the orders in force for several years Lower Division Clerks recruited to the Central Secretariat and the Attached Offices through the Union Public Service Commission have been entitled to two advance increments. On account of conditions created by the war and the transfer of power, however, a large number of temporary employees and displaced Government servants from Pakistan areas had to be appointed to the clerical grade direct and the Union Public Service Examination held in abeyance. As a result, a great majority of the existing Lower Division Clerks, not having come through the Union Public Service Commission, were denied the benefits of the two advance increments. The Government of India, therefore, decided recently that the two advance increments should be admissible to all persons confirmed in the Lower Division of the Central Secretariat Clerical Service and also to those who had held such posts in this service for at least three years and are considered suitable for confirmation. This order thus merely represents an extension of an old order to suit the existing conditions. Clerks outside the Central Secretariat and the Attached offices never had the benefit of these advance increments and there was no reason to extend the benefit to them for the first time now.

(c) Certain communications have been received in this regard.

Shri Bheekha Bhai: May I know whether Government propose to remove the discontent among the other category of employees by revising the rules?

Shri Datar: So far as other categories are concerned, there is no justification for any discontent at all.

JANATA COLLEGE (MYSORE)

***522. Shri Thimmaiah:** Will the Minister of Education be pleased to state:

(a) whether Government propose to open a Janata College in Mysore State;

(b) if so, when the College will be opened; and

(c) the estimated cost of maintenance of the College?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) and (b). The State Government contemplate to open shortly a Janata College at Vidyanagar for which Central Government subsidy has been sanctioned.

(c) Rs. 10,000/- per annum.

Shri Thimmaiah: May I know the names of other States where similar colleges have been opened?

Dr. M. M. Das: There are about 20 Janata colleges for which sanctioned for grants has been given by the Central Government. They are in West Bengal, Bihar, Bombay, Uttar Pradesh, Madras, Punjab, Bhopal etc.

Shri Thimmaiah: What is the amount of subsidy that is going to be given to the Mysore Janata College?

Dr. M. M. Das: A non-recurring sum of Rs. 9,900 has been sanctioned and a recurring expenditure for six months of Rs. 2,500 has also been sanctioned.

ADMISSION TO THE NATIONAL DEFENCE ACADEMY

***523. Shri K. C. Sodhia:** Will the Minister of Defence be pleased to state:

(a) the actual number of N.C.C. cadets selected for admission to the

National Defence Academy as a result of the selection by competition during 1953-54;

(b) the total number of N.C.C. candidates rejected as the result of personal interview; and

(c) the reasons for their rejection?

The Deputy Minister of Defence (Shri Satish Chandra): (a) The number of N.C.C. cadets so far selected through entries for the N. D. A. which include a U. P. S. C. examination is 163.

(b) 281.

(c) The candidates did not come up to the required standard.

Shri K. C. Sodhia: What was the total number of candidates selected for admission and what proportion of these was formed by the NCC cadets?

Shri Satish Chandra: I think he asked for figures from 1953-54 which have been given in the answer.

Shri K. C. Sodhia: What was the total number admitted?

Shri Satish Chandra: I said in the year under reference the number was 163.

Shri K. C. Sodhia: Of whom?

Mr. Speaker: Order, order. What is the question?

Shri K. C. Sodhia: My question is, what was the total number of candidates admitted in the Academy and what proportion of this total number was formed by the NCC cadets?

Shri Satish Chandra: If the hon. Member wants all the figures, apart from the year he has mentioned in the question, I may inform him that 517 NCC cadets were admitted to the Academy since 1951 as a result of the examination conducted by the UPSC. Another 164 NCC cadets were admitted to the military wing directly; 61 NCC cadets were admitted through the technical graduate's course and 163, which I have given in answer to this question, were admitted against 10 per cent. reserve vacancies allotted to the NCC cadets.

CONCESSIONS TO BRITISH TEXTILE IMPORTS

***527. Shrimati Tarkeshwari Sinha:** Will the Minister of Finance be pleased to state:

(a) whether it is a fact that a delegation of Lancashire textile industry met him recently;

(b) if so, whether any assurance has been given to them, about granting concessions to British textile imports into India; and

(c) if so, the nature of assurance given?

The Deputy Minister of Finance (Shri A. C. Guha): (a) Yes, Sir, a delegation of the representatives of the Lancashire cotton textile industry met the Finance Minister in London on the 18th October, who represented that the recent enhancement of import duty would almost eliminate textile imports from U.K. into India and increase the disparity between them and Indian textile imports into U.K.

(b) and (c). The Finance Minister undertook to pass the representation on to the Commerce and Industry Minister, who would, he said, have to watch the actual course of this trade before considering what action, if any, should be taken.

Shrimati Tarkeshwari Sinha: May I know whether the hon. the Finance Minister also met Mr. Peter Thorneycroft, President of the Board of Trade, and discussed this matter with him? If so, may I know the specific nature of the discussion that took place?

Shri A. C. Guha: I do not think there was any discussion on this matter between the Finance Minister and the President of the Board of Trade.

Shrimati Tarkeshwari Sinha: May I know whether, in view of the reported admission of Japan to GATT, there is any possibility of the overall relationship between India and U.K. in the matter of export and import of cloth being changed?

Shri A. C. Guha: I think that question may better be directed to the Ministry of Commerce and Industry.

Shri L. N. Mishra: If the total imports to India from U.K. have not gone down, what is the reason for demanding special privileges for the import of textiles to India?

Shri A. C. Guha: The reason is that Indian textiles are being imported into the U.K. The export of British textiles to India has gone down and thereby the labour position in the U.K. textile industry is somewhat in difficulty and the employment position is getting rather unsatisfactory. So they wanted that the import of Indian textiles into U.K. might be restricted and there might be some relaxation of the import duty to allow more of U.K. textiles into India.

LOAN TO MYSORE

*529. **Shri Keshavaiengar:** Will the Minister of **Finance** be pleased to state:

(a) whether it is a fact that the Government of India have given a subsidy or loan to the Government of Mysore for the construction of the Vidhana Sabha building which is being built at Bangalore; and

(b) if so, how much and on what terms?

The Deputy Minister of Finance (Shri M. C. Shah): (a) No, Sir.

(b) Does not arise.

Shri Keshavaiengar: May I know whether, in view of the fact that this building may be made available for holding the Lok Sabha and Rajya Sabha sessions at Bangalore in future, if so, desired, a representation for a grant towards the cost of its construction, if made by Mysore, will be considered by the Centre?

Shri M. C. Shah: No representation has so far come from the Mysore Government in connection with the building of the Vidhana Sabha.

UTILIZATION OF LOANS

*530. **Shri Bhagwat Jha Azad:** Will the Minister of **Finance** be pleased to state:

(a) whether Government have received any information of Central loans being used by State Governments for purposes other than that for which they were allotted;

(b) if so, from which States; and

(c) whether the States are allowed to divert the amount of a Central loan to purposes other than that for which it was specifically given by the Central Government without giving any reasons for such decisions to the Central Government?

The Parliamentary Secretary to the the Minister of Finance (Shri B. R. Bhagat): (a) No Sir.

(b) Does not arise.

(c) No, Sir.

Shri Bhagwat Jha Azad: May I know whether any conditions are laid down before giving such loans so that the money may not be diverted from the prescribed sector to a non-prescribed sector?

Shri B. R. Bhagat: Under the rules and conditions prescribed for giving these loans, there is absolutely no possibility of any diversion because usually the loans are given only on statements submitted after the expenditure has been incurred. In some cases when advance loans are made firstly, a letter of endorsement is sent to the Accountant-General or the Auditor-General who keeps a watch on the expenditure. Secondly, the State Governments give periodical reports of expenditure so that we can judge it. Thirdly the loans are made from the consolidated funds of the State and any excess or shortage every year is adjusted in the accounts of the State and allowance will be made for it in future loans. Therefore, there is absolutely no prospect of any diversion of loans to any scheme other than the prescribed scheme.

Shri Bhagwat Jha Azad: Is it not open to the State Government to reconsider and revise its plan of allotment and divert the loan given to it by the Centre from one industry to another industry?

Shri B. R. Bhagat: They will have to come for fresh sanction; they cannot do it on their own.

Shri R. S. Diwan: May I know if the loans which are given for a particular purpose are not utilised for that particular purpose and within the prescribed period, the amounts will lapse?

Shri B. R. Bhagat: They do not lapse, but allowance is made for them in future loans given to that State.

SALE OF WORLD BANK BONDS

*531. **Shri Sanganna**: Will the Minister of **Finance** be pleased to state:

(a) whether Government have been examining recently the possibility of allowing sale of World Bank Bonds in rupees in India; and

(b) if so, with what result?

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): (a) No, Sir.

(b) Does not arise.

Shri Sanganna: May I know whether this question was discussed at the World Bank Governors' Conference held at Washington in which India was represented by the Finance Minister?

Shri B. R. Bhagat: If, by this question, the hon. Member means raising loans in the Indian market in Indian rupees, then, Sir, this was not discussed.

SAW MILL

*532. **Shri Morarka**: Will the Minister of **Defence** be pleased to state:

(a) whether the attention of Government has been drawn to the observation made by the Public Accounts Committee in their Ninth Report that in the matter of disposal of a Saw Mill, in spite of favourable legal opinion, Government did not enforce the terms of the agreement but released the stores at 40 per cent. of the book value on the ground that it was in pursuance of a new policy decided by Government to sell surplus plant and machinery to industrial users; and

(b) whether Government have any intention to pursue this matter and fix the responsibility on those who did not guard the public interests?

The Deputy Minister of Defence (Sardar Majithia): (a) Yes.

(b) Yes.

Shri Morarka: May I know whether the Government has since recovered hire charges amounting to more than Rs. 60,000 from this party?

Sardar Majithia: The question relates to sale. In those negotiations the hire charges were also taken into account.

Shri Morarka: May I know whether the hire charges for the period 1945 to 1949 had been recovered? Because the sale was effected—as I understand—in 1949, I want to know whether this amount of Rs. 60,000 which, as the Minister says was taken into consideration, related to the period 1945-49?

Sardar Majithia: It has not been recovered.

Shri S. C. Samanta: How was this matter enquired into?

I want to know whether any Committee has been set up.

Sardar Majithia: I am personally looking into this matter now.

NATIONAL DRUGS LABORATORY, LUCKNOW

*533. **Shri Sarangadhar Das**: Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) the number of Scientific Officers and Research Assistants working in the National Drugs Laboratory, Lucknow; and

(b) the number of quarters constructed to house them?

The Deputy Minister of Natural Resources and Scientific Research (Shri K. D. Malaviya): (a) The Scientific staff of the Central Drug Research Institute consists of:

(i) Scientific Officers (including Director, Deputy Director and four Assistant Directors ...38

(ii) Research Assistants ...29

(b) None so far.

Shri Sarangadhar Das: In view of the fact that the laboratory has been in existence for four or five years without any quarters, may I know whether these scientific officers and their staff are concentrating all their attention to their work or they have some inconvenience?

Shri K. D. Malaviya: They might have some inconvenience. The Government are fully in the know of their difficulties and they are trying to expedite construction of buildings. We have yet to get some lands from the State Government to which the State Government has not so far consented. The proposals which have emanated from our Ministry are before the Finance Ministry for their concurrence.

Shri Sarangadhar Das: May I know the probable date by which the construction work is likely to be started?

Shri K. D. Malaviya: I cannot give an exact date, but we will try to expedite it.

Shri S. C. Samanta: In view of the fact that research work on indigenous drugs is also being carried on, may I know whether among the Research Assistants there is any Ayurvedic Doctor who has passed from the State Faculties of Ayurveda?

Shri K. D. Malaviya: None that I know of.

FIRE IN AGARTALA (TRIPURA)

***534. Shri Dasaratha Deb:** Will the Minister of States be pleased to state:

(a) how many shops were burnt out in the fire that broke out on the night of the 20th September, 1954 in the Maharajganj Bazar, Agartala;

(b) whether most of the owners of the shops are displaced persons from East Pakistan;

(c) whether Government have given any compensation to the affected persons; and

(d) if not, what measures Government propose to take for their economic rehabilitation?

The Minister of Home Affairs and States (Dr. Katju): (a) to (d). Enquiries have been made from the Chief Commissioner, Tripura, and a statement will be laid on the Table of the House as soon as possible.

Shri Dasaratha Deb: May I know whether it is a fact that the police were engaged in preventing people from removing things from the houses when these houses were only slightly burning?

Dr. Katju: I do not know; I shall ask for further information on that point also.

NAMKUM MILITARY DAIRY FARM

***537. Th. Jugal Kishore Sinha:** Will the Minister of Defence be pleased to state the action taken on the representation of Ranchi Goshala Committee about the disposal of useful animals by the authorities of Namkum Military Dairy Farm?

The Deputy Minister of Defence (Sardar Majithia): The representation of Ranchi Goshala Committee was considered and the following procedure was laid down for the disposal of animals.

(a) Unwanted calves are reared for one month on Military Farms and then sold/given away as free gifts to State Governments or individuals interested in the breeding or established gowshalas.

(b) If the recipient wishes a calf to be reared for more than a month, this is undertaken and actual cost of rearing beyond 30 days is charged.

(c) In all other cases where the cattle are not suffering from infectious diseases and incurable diseases, they are disposed of by auction.

(d) Every effort is being made to cure cattle suffering from illness and infectious diseases failing which the incurable animals are painlessly destroyed.

ठाकुर युगल किशोर सिंह : क्या यह सही है कि नामकुम डेअरी से कुछ दूध देने वाली गायें और भैंसें और जो गाभिन गायें और भैंसें थीं उनको बेच दिया गया ?

Sardar Majithia: As I have already said, those cows which are suffering from diseases which are not infectious and which are found unproductive or below economical production are disposed off.

ठाकुर युगल किशोर सिंह : क्या रांची गौशाला में इस सम्बन्ध में जांच की गयी कि वे सब गायें दूध देती थीं और बच्चे देने वाली गायें और भैंसें थीं जो कि दूसरे के हाथ नहीं बेची जा सकती थीं ?

Sardar Majithia: I have already said that we do dispose of cows and buffaloes which we find are not economical. They do give a small quantity of milk and also bear calves.

Shri G. P. Sinha: May I know if there is any proposal to hand over cows or milk not necessary for the dairy to *Goshalas* only, and if they refuse can it be disposed of to others?

Sardar Majithia: That is exactly the procedure that is laid down.

YOGA ASHRAMS

*541. **Babu Ramnarayan Singh:** Will the Minister of **Education** be pleased to refer to the supplementary question raised on the Starred Question No. 964 asked on the 15th September, 1954 and state:

(a) the number of *Yoga Ashrams* (Yogic physical culture institutions) in the country at present; and

(b) the amount of grant given to them during the year 1954 so far?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) No information about the number of Yoga Ashrams is available with the Government.

(b) Financial assistance of Rs. 18,000/- on *ad hoc* basis for the specific purpose of promoting research in Yoga has been given to Kaivalayadhama Shreeman Madhava Yoga Mandir Samiti (K.S.M.Y.M. Samiti), Lonavla, District Poona, Bombay, during 1954-55.

Babu Ramnarayan Singh: Is the Parliamentary Secretary aware that there is a Yoga Ashram here in Delhi with several branches all over the city including two for the Members of this House, and if so, is it the intention of the Government to give some special grant to this institution?

Dr. M. M. Das: So far as the Central Government is concerned, they give grants for the research in Yoga and not for ordinary practice of Yoga; that is the difficulty, Sir.

Babu Ramnarayan Singh: May I know whether some correspondence is going on between the Government of India and the Government of Russia on the subject?

Dr. M. M. Das: There was a question during the last session about a report in the Press that the Russian Government are going to introduce Yoga exercises in the country. We wrote to our embassy in Moscow for details and for verification of this report. We have not yet received an answer and we have sent reminders.

Shri Keshavaiengar: Is the Government aware of the fact that in the two centres for *yogasans*, one in the North Avenue and the other in the Constitution Club, about 62 Members of this House, including the Deputy-Speaker, have had training in this system?

Mr. Speaker: Order, order. We will go to the next question.

STUDENTS' STIPENDS

***542. Shri K. C. Jena:** Will the Minister of **Education** be pleased to state:

(a) whether the Scheduled Caste and Scheduled Tribe Students in Orissa have not so far received the first instalment of their post-matric stipends for this year;

(b) whether Government propose to take any steps to avoid delay in payment; and

(c) if so, the steps that Government propose to take in this connection?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) Payment of the first half-yearly instalment has been made to all Scheduled Castes and Scheduled Tribes Scholarship-holders of Orissa whose applications were complete on 30th September, 1954. Payment in respect of scholars whose applications were completed later is expected to be made shortly.

(b) and (c). There has been no delay in the payment of the scholarships.

Shri K. C. Jena: May I know the reason for delay in the payment of scholarships?

Dr. M. M. Das: As I have said, to those eligible applicants, whose applications were complete on or before the 30th September 1954, scholarships have been sent already, but there were some applicants whose application forms were not properly filled up in respect of several columns. In their cases, some delay has taken place.

Shri K. C. Jena: May I know whether there is any rule to examine the applications state-wise?

Dr. M. M. Das: State-wise according to award of scholarships?

Mr. Speaker: Whether the examination takes place state-wise?

Dr. M. M. Das: There is no such rule, but the hon. Member may kindly remember that we have got nearly 34,000 applications and we are to scrutinise all of them, and naturally it takes time.

श्री जांगड़े : क्या मैं जान सकता हूं कि इन आदिम जातियों और अनुसूचित जातियों को जो छात्रवृत्तियां दी जाती हैं वे साल में केवल दो किस्तों में दी जाती हैं, जिस के कारण बहुत से छात्रों को ६ महीने तक स्कालरशिप नहीं मिलता और उन को पढ़ाई छोड़ देनी पड़ती हैं, और क्या सरकार ६ महीने की बजाय २ महीने में स्कालरशिप देने की व्यवस्था करेंगी ?

Dr. M. M. Das: We have no information that scholarship holders have given up their studies for want of money from scholarships but it is a fact that six-monthly scholarships are given.

Shri Nanadas: May I know whether the students that were not selected for the scholarships are being informed of the reasons why they were not selected?

Dr. M. M. Das: All students practically, so far as the Scheduled Castes and Scheduled Tribes are concerned who are eligible that is who satisfy the minimum conditions, have been granted scholarships. At first the Government of India sanctioned only Rs. 75 lakhs, and then as there were many eligible scholars left out, another Rs. 32 lakhs were sanctioned. The total amount for this year is Rs. 107 lakhs.

EXPLOSIONS IN ARMY UNIT

***543. Shri Ram Dass:** Will the Minister of **Defence** be pleased to state:

(a) whether any explosion occurred on the 21st September, 1954 in an Army Unit stationed at Ambala Cantonment;

(b) the number of soldiers killed and injured in the incident; and

(c) the causes of the explosion?

The Deputy Minister of Defence (Sardar Majithia): (a) Yes; an explosion occurred but on the 16th September 1954, and not on the 21st September, 1954.

(b) One sepoy was killed and five others injured; of these one succumbed to his injuries in the hospital.

(c) The cause of the explosion is being investigated by a Court of Inquiry, whose report is still awaited.

Shri Ram Dass: May I know whether pension or compensation was granted to the families of the deceased?

Sardar Majithia: That question will be finalised as soon as the proceedings of the Court of Inquiry are received and we are able to fix the responsibility.

Shri Ram Dass: May I know how many of the injured were declared unfit for service?

Sardar Majithia: I have not got that information with me, but out of the five, as I have said, one died, and therefore, four remained and they were treated, but whether they were subsequently released, I still have to check up.

WELFARE OF NAVAL STAFF

***544. Shri S. C. Samanta:** Will the Minister of **Defence** be pleased to state:

(a) what steps have been taken by Government towards the welfare and morale of officers and their families in Naval Establishments since 1947; and

(b) what further measures are proposed to be taken in the near future?

The Deputy Minister of Defence (Sardar Majithia): (a) and (b). Government has been concentrating on provision of suitable amenities to ratings for whom new married accommodation has been built in Jamnagar, Bombay and Cochin together with ancillary facilities as women's clubs, families' clinics, children's playgrounds, canteens, etc.

In regard to officers, additional married accommodation has been provided in Bombay, Cochin, Vizag, Jamnagar, Lonavla and Delhi. Moreover, proposals are now under consideration for the provision of tennis, squash, badminton courts, for officers in all Naval bases.

Shri S. C. Samanta: Recently, the Commander-in-Chief Admiral Pizey declared that the reorganisation of Naval Headquarters Establishment will help much in increasing the facilities to their officers. May I know what are the means?

Sardar Majithia: I have already given a list of additional married accommodation provided in Bombay, Cochin, Vizag, Lonavla and Delhi and the additional facilities for tennis, squash and badminton courts, for which funds are given out of the Flag Day collections and also by the Naval Headquarters.

Shri S. C. Samanta: Is it a fact that facilities given to officers in different naval headquarters differ? If so, what steps Government intend to take to equalise them?

Sardar Majithia: As the House already knows, we are doing our best with the limited resources that we have got. After the Partition, as you know, Sir, most of our accommodation was lost to us and went to Pakistan. We are trying to give more married accommodation and also other facilities in the case of sports. I quite realise that all the stations do not get all the facilities, because it is very difficult to go on to this expanded scale of expenditure at the same time.

PARTITION DEBTS

***545. Sardar Hukam Singh:** Will the Minister of **Finance** be pleased to refer to the reply to starred question No. 970 asked on the 15th September, 1954 and state:

(a) whether any amount, out of the Partition debts, has since been recovered from Pakistan; and

(b) whether any conference has taken place since the 1st April, 1954 for discussion on this subject?

The Deputy Minister of Finance (Shri A. C. Guha): (a) No. Sir.

(b) The Finance Minister had a brief informal discussion with the Finance Minister of Pakistan when they met in Ottawa in October last, but no definite programme could be settled.

Sardar Hukam Singh: May I know whether any future date has been fixed for any negotiations or are they closed?

Shri A. C. Guha: I think the hon. Member may make his own intelligent guess from the trend of the Pakistan politics. There have been some feelers that they will start certain negotiations to settle all the pending problems. Any date may turn to be a fixed date or there may not be a fixed date.

Sardar Hukam Singh: The Finance Minister budgeted Rs. 9 crores for receipts during last year and he was very sanguine that he would get that amount at least this year from Pakistan. Have we been able to get any part of it?

Shri A. C. Guha: As a nation, we are optimistic and as such we made some optimistic expectation, but the other side have not respected that optimism about them. We cannot help that.

Sardar Hukam Singh *rose*—

Mr. Speaker: The answer will be as vague as the question. Let us go to the next question.

INTEGRATION OF KASHMIR OFFICES

***546. Shri Krishnacharya Joshi:** Will the Minister of **Finance** be pleased to state:

(a) whether Income-tax and Posts and Telegraphs Departments of Kashmir have been completely integrated with those of the Indian Union; and

(b) if so, what is the annual revenue from these integrated subjects?

The Deputy Minister of Finance (Shri M. C. Shah): (a) Yes, Sir. The Income-tax and Posts and Telegraphs Departments of Jammu and Kashmir have been completely integrated with the Indian Union.

(b) The estimated annual revenue is as follows:—

(i) Income-tax:	Rs. 12,00,000.
(ii) Posts and Telegraphs: Telecommunications:	Rs. 3,12,000.

Since the postal system was taken over in 1894 and since Jammu and Kashmir is not treated as a separate entity for purposes of postal administartion, no estimate of the revenue from the postal system is possible.

Shri Krishnacharya Joshi: May I know whether it is a fact that the telephone rates in Jammu and Kashmir are higher than the rate in the other States of the Indian Union, and if so, what are the reasons?

Shri M. C. Shah: That question should be addressed to the Ministry of Communications. I have not got those figures.

Shri Krishnacharya Joshi: May I know whether the telephone and telegraph staff in that State have not been given the same salary as that of the Indian Union staff?

Shri M. C. Shah: That is also for the Minister of Communications. So far as income-tax, excise and customs are concerned, I can give the Members any information they like.

Shri K. G. Deshmukh: May I know whether the Government are giving some grant to the Jammu and Kashmir Government due to the integration of this Department, and if so, what is the amount?

Shri M. C. Shah: The agreement has not yet been signed, but we have agreed to give 55 per cent. of the income-tax and 40 per cent. of the duties on matches, tobacco, vanaspati, etc. But at the same time, if there is any shortfall from an amount of Rs. 2·50 crores, then, we have to give Rs. 2·5 crores.

Dr. Lanka Sundaram: May I know whether there are concrete proposals under consideration for the integration of services of the Jammu and Kashmir Government—other than the income-tax and P. & T. services—with their counterparts in the Government of India?

Shri M. C. Shah: I think the Finance Ministry is not concerned with this question. We are concerned with revenue and expenditure. I think that the question should be addressed to the administrative Ministry concerned.

Ex-I.N.A. PERSONNEL

*550. **Shri Jhulan Sinha:** Will the Minister of **Defence** be pleased to state:

(a) whether it is a fact that a decision has been taken for granting further relief to the *ex*-I.N.A. personnel; and

(b) what is the overall position in regard to their re-employment and relief?

The Deputy Minister of Defence (Sardar Majithia): (a) and (b). I.N.A. personnel are already eligible for service in the Armed Forces and the Central and State Governments, provided they have the requisite educational, physical and other qualifications prescribed for other new entrants. No stigma is attached to them on account of their joining the I.N.A. *Ex*-Indian Army Officers who had joined the I.N.A. are eligible for fresh commissions. They are also granted financial concessions such as three months' pay and allowances including deferred pay of the rank held at the time of discharge, Service pension and gratuity admissible under normal rules, war gratuity and monetary allowances attached to decorations and awards to them.

In view of the above-mentioned concessions, the question of granting further relief has not been considered necessary.

Shri Jhulan Sinha: May I know whether the Government is in a position to give us an idea as to the extent to which the I.N.A. personnel has been absorbed in the Indian Army and about those who are still remaining to be absorbed?

Sardar Majithia: I have not got the complete figures. But I have got figures regarding the officers. Out of the 18 officers who applied for commissions, ten were not found suitable, seven have been granted permanent commissions or short service regular commissions, and the case of one is still under consideration.

Shri Jhulan Sinha: May I know if it is a fact that the officers who have been absorbed in the Army have claimed their remuneration for the period they were out of the Indian Army and with the I.N.A.?

Sardar Majithia: I want notice of the question.

Dr. Suresh Chandra: Is the Government aware of the complaints and the memoranda submitted to the Government by the I.N.A. Relief and Enquiry Committee with regard to this stigma attached to the I.N.A. personnel and the anti-I.N.A. policy of the Government which are contrary to the statement made by the hon. Minister?

Sardar Majithia: I should like to repeat that the Government is not anti-I.N.A., and particularly with the Prime Minister as the Chairman, the Government cannot be anything but pro-I.N.A.

UNIVERSITY GRANTS COMMISSION

*552. **Shrimati Tarkeshwari Sinha:** Will the Minister of **Education** be pleased to state:

(a) whether Government propose to give a grant of Rs. 10 lacs to the University Grants Commission for introducing the new scales of pay as suggested by the Commission;

(b) whether this grant is to be given to the professors and teachers of only a few universities in the country; and

(c) whether Patna and Bihar Universities have also approached Government for such grants?

The Parliamentary Secretary to the Minister of Education (Dr. M. M. Das): (a) The University Grants Commission have decided to assist Universities in enforcing certain minimum pay scales for University teachers. The Commission will pay to the Universities such grants as are necessary for the purpose from the funds placed at their disposal by Government.

(b) The Commission have decided to give grants to Universities where the scales of salary are lower than those proposed by the Commission. They have also decided that the grant is inadmissible in respect of teachers who are Government servants and who are not University employees.

(c) Yes.

Shrimati Tarkeshwari Sinha: May I know whether the Patna and the Bihar Universities have been refused to be given grant by the University Grants Commission?

Dr. M. M. Das: The Bihar University has not yet furnished definite data required by the University Grants Commission in this connection. No categorical reply has been received by the Commission from the Patna and the Bihar Universities as to whether the teachers are government servants or not.

Shrimati Tarkeshwari Sinha: May I know whether the Government has kept their demand pending because of not receiving the reply from these universities?

Dr. M. M. Das: As I have said, one of the conditions of these grants is that the University Grants Commission will not give any grant to a university if its teachers are employed by the Government—if they are government servants.

Shrimati Tarkeshwari Sinha: May I know whether this amount will be paid as personal allowance to the teachers or whether it will be in the shape of a revised scale of pay, and also whether this revised scale of pay will have any retrospective effect?

Dr. M. M. Das: There will be no retrospective effect, but it will not increase their pay-scales and their contribution to the Provident Fund, etc. It will be given as a personal allowance.

Sardar A. S. Saigal: May I know whether the teachers of the Central Universities, namely, Delhi, Aligarh and Banaras, have come within the scope of this scheme?

Dr. M. M. Das: The teachers of the Delhi University have come within the scope of this grant. The application of the Aligarh University is under consideration, and the Banaras Hindu University is outside the scope of this grant.

Shri T. S. A. Chettiar: May I know whether this grant is an *ad hoc* grant, whether the increments contemplated are recurring or permanent expenditure, and what are the university teachers expected to do in further years to come when the recurring expenditure is permanently increased?

Dr. M. M. Das: I am not sure about this point, but I think these grants will continue to be given by the University Grants Commission.

TECHNICAL TRAINING COLLEGE, JALAHALLI

***553. Shri Keshavaiengar:** Will the Minister of **Defence** be pleased to state:

(a) whether Indianisation of the staff connected with the Technical Training College at Jalahalli is being carried out;

(b) if so, to what extent; and

(c) the number of foreigners on the staff of the college in 1952-53, 1953-54 and 1954-55?

The Deputy Minister of Defence (Shri Satish Chandra): (a) Yes.

(b) and (c). The progress is as shown below:—

Year		No. of British Instructors
December, 1953	...	39
December, 1952	...	22
November, 1954	...	20

Shri Keshavaiengar: May I know if any of these contracts in respect of these foreign experts have been renewed recently?

Shri Satish Chandra: Yes, Sir. That is so.

Shri Keshavaiengar: May I know if it is a fact that the Government could have conveniently refrained from renewing these contracts with foreign experts inasmuch as the local talents were available?

Shri Satish Chandra: The Government have made every possible effort to find out whether suitable instructors are available in the country. They have failed. The U.P.S.C. has failed on several occasions to find out suitable Indian instructors with the requisite experience and qualifications. I may add that there is a likelihood of this number being increased in view of the increasing commitments and slight expansion of the Indian Air Force.

Shri Keshavaiengar: May I know if one of those experts recently picked up was later found unfit for the subject for which he was picked up, and that he was asked to go back?

Shri Satish Chandra: I am not aware of any such individual case.

WRITTEN ANSWERS TO QUESTIONS

भाग 'ग' राज्य

*५०७. **श्री एम० एल० द्विवेदी :** क्या गृह-कार्य मंत्री यह बताने की कृपा करेंगे कि :

(क) जिन भाग 'ग' राज्यों में विधानसभाओं तथा लोकप्रिय मंत्रिमंडलों की स्थापना हुई हैं, उन की प्रशासकीय दक्षता और दूसरी महत्वपूर्ण बातों के बारे में क्या सरकार को सामयिक प्रतिवेदन प्राप्त होते हैं ; और

(ख) यदि हां, तो राज्य सरकारों से किस प्रकार के प्रतिवेदन प्राप्त हुए हैं ?

The Deputy Minister of Home Affairs (Shri Datar): (a) and (b). The issue of Annual Administration Reports in respect of Centrally Administered Areas (now Part C States) was discontinued as a measure of economy in 1942. All Part C States have since been advised to make arrangements for the regular publication of Annual Administration Reports. A copy of Administration Report for 1947-48 for the State of Coorg has recently been received. The Governments of Vindhya Pradesh and Bhopal have also published Administration Reports for 1953 and 1950, respectively. These reports deal with all matters relating to the administration of these States.

WITHDRAWAL OF PRE-1947 COINS

*512. **Dr. Ram Subhag Singh:** Will the Minister of **Finance** be pleased to state:

(a) whether Government are aware that the Portuguese authorities in Goa have launched a propaganda campaign to the effect that the Government of India propose to withdraw pre-1947 Indian coins from circulation and forcing the people to subscribe such coins held by them to a Goa Defence Fund; and

(b) if so, whether Government will state the facts of the case?

The Deputy Minister of Finance (Shri M. C. Shah): (a) and (b). The Government of India are not aware of any such propaganda. But it is reported that there are persistent rumours in Goa about the withdrawal of Indian currency notes bearing the effigy of King George VI. There is no foundation in these rumours whatsoever.

PUBLIC ADMINISTRATION

***514. Shri S. N. Das:** Will the Minister of **Home Affairs** be pleased to refer to the reply given to starred question No. 612 on the 18th August, 1953 and state:

(a) whether the Government of India have finalised their consideration of the Report of the American Adviser on Public Administration; and

(b) if so, the nature of the decision so far taken on the various recommendations in the Report?

The Deputy Minister of Home Affairs (Shri Datar): (a) and (b). The reference presumably is to the report submitted in 1953 by Mr. Paul H. Appleby. The recommendations contained in this report have been considered by Government along with the recommendations made by other authorities, particularly, those made by the late Shri Gopalaswami Ayyangar and those contained in the first Five-Year Plan. Some of the recommendations of Mr. Appleby have in fact been implemented. An Organisation and Methods Division has been set up in the Cabinet Secretariat as suggested by him and an Institute of Public Administration sponsored by Government has started functioning. A plan for the establishment of a School of Public Administration has also been initiated by the Institute of Public Administration. It is proposed that the School should organise Seminars and Refresher Courses for those interested in public administration in addition to training for graduate students.

2. The remaining recommendations of Mr. Appleby relate to general principles of personnel administration, organisational structures and methods of work. These recommendations have been noted and will be taken into account in dealing with specific problems relating to individual departments.

CENTRAL SECRETARIAT

***515. Pandit D. N. Tiwary:** Will the Minister of **Home Affairs** be pleased to refer to the reply given to starred question No. 285 asked on the 23rd February, 1954 and lay a statement on the Table of the House showing the number of gazetted and non-gazetted officers serving the Union Government but with Headquarters in the various component States?

The Minister of Home Affairs and States (Dr. Katju): The information is being collected and will be laid on the Table as soon as it is available.

YOUTH CAMPS

***516. Shri Bibhuti Mishra:** Will the Minister of **Education** be pleased to state:

(a) the number of the Youth Camps organised by the various States during the year 1953-54;

(b) whether Government have received any report as to the working of these Camps; and

(c) if so, the reactions of the Government thereto?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Seventy (70).

(b) Reports on the working of the Camps have been called for and it is hoped that the same will reach the Government shortly.

(c) Does not arise.

FOREIGN INVESTMENTS

***517. Shri Gidwani:** Will the Minister of **Finance** be pleased to state:

(a) the total value of foreign investments in India on the 1st January, 1953;

(b) the amount of profit they earned during the year 1953; and

(c) what percentage of the profits was re-invested in India?

The Deputy Minister of Finance (Shri M. C. Shah): (a) Government have no information. The Reserve Bank of India is at present conducting a census of India's Foreign Liabilities and Assets which, when completed, will give the information as on the

31st December, 1953.

(b) and (c). Government have no information.

NATIONAL CADET CORPS

***519. Shri M. S. Gurupadaswamy:** Will the Minister of **Defence** be pleased to state:

(a) the total number of cadets of the National Cadet Corps who have been selected so far for Regular Commissions in the Army, Navy and Air Force;

(b) the number of cadets who have already been commissioned;

(c) whether any reservation exists for these cadets in the Air Force and Navy also; and

(d) if so, what is the reservation made?

The Deputy Minister of Defence (Shri Satish Chandra): (a) Through the special N.C.C. entry 118 N.C.C. cadets have been selected for the Army and five for the Air Force. There is no special N.C.C. entry for the Navy, but three of the Army Cadets were transferred to the Navy as they were surplus to Army requirements.

(b) Sixty-seven.

(c) and (d). Ten per cent. of the officers in-take in the Air Force is reserved for N.C.C. cadets. The question of reservation in the Navy is under consideration.

LIQUIDATION OF BANKS

***524. Shri Ibrahim:** Will the Minister of **Finance** be pleased to state:

(a) the number of banks that went into liquidation in India during 1953-54;

(b) the main reasons for their liquidation; and

(c) whether Government have any scheme to stabilize the banking system in India?

The Deputy Minister of Finance (Shri A. C. Guha): (a) and (b). During the period 1st January, 1953, to the 31st October, 1954, 39 banks went into liquidation. A statement showing the names of the banks together with the reasons for their liquidation is laid on the Table of the House. [*See* Appendix III, annexure No. 10.]

(c) The various provisions of the Reserve Bank of India Act, 1934, the Banking Companies Act, 1949, and the powers of supervision and control conferred on the Reserve Bank particularly by the latter enactment are designed progressively to bring about the stabilisation of the banking system in the country.

PROSPECTING FOR PETROLEUM

***525. Shri H. N. Mukerjee:** Will the Minister of **Natural Resources and Scientific Research** be pleased to refer to the answer to starred question No. 972 asked on the 15th September, 1954 and state what progress has since been made by the reconnaissance party of technicians who toured areas on both banks of the Hooghly?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): Gravity survey is proceeding in areas on both banks of river Hooghly.

EXCAVATIONS

***528. Shri Bahadur Singh:** Will the Minister of **Education** be pleased to state:

(a) the nature of the fresh excavations that have been undertaken during 1954 so far by the Archaeological Department; and

(b) whether consequent on that, any articles of historical importance have been unearthed?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) and (b). The nature and results of the Archaeological excavations carried out in 1953-54 (upto 31st March, 1954) are contained in "Indian Archaeology—1953-54—A Review", pages 6-12, copies of which are available in the Parliament Library.

The new season for excavations has just started and the results will be known only after the end of the financial year.

JOINT CADRES FOR STATES

***535. Shri Anandchand:** Will the Minister of **Home Affairs** be pleased to state:

(a) whether Government are considering any scheme under which all part 'C' States will be allotted joint cadres of IAS and IPS officers with the neighbouring part 'A' or part 'B' States; and

(b) if so, when the scheme is likely to be implemented?

The Deputy Minister of Home Affairs (Shri Datar): (a) and (b). Certain proposals for constitution of joint cadres of the All India Services were considered by the Government of India. No final decision has however been reached, and the matter is being pursued.

बिहार को सहायता

***५३६. श्री बी० पी० सिंह :** क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि :

(क) चालू वित्तीय वर्ष में बिहार सरकार को प्राथमिक, माध्यमिक और उच्च शिक्षा के लिये अलग-अलग कितनी सहायता दी गयी हैं ; और

(ख) क्या इस सहायता में बुनियादी तालीम के लिये कोई रकम निश्चित कर दी गयी हैं ?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) A sum of Rs. 16,19,484 has been sanctioned as Central Government's subsidy to the Government of Bihar for primary education and Rs. 1,46,515 for secondary education. No grant has been paid for higher education.

(b) Yes.

ESTATE DUTY

***538. Shri Ganpati Ram:** Will the Minister of **Finance** be pleased to state the number of cases of evasion of **Estate Duty, detected and the** general difficulties, if any, experienced by Government in the assessment of value of property and in the tax collection?

The Deputy Minister of Finance (Shri M. C. Shah): No case of evasion has come to notice so far, and no difficulty has yet been encountered in assessing the value of property and tax collection.

OPIUM

***539. Sardar Iqbal Singh:** Will the Minister of **Finance** be pleased to lay a statement on the Table of the House, showing the amount of revenue received from opium cultivation in India in 1952-53 and 1953-54?

The Deputy Minister of Finance (Shri A. C. Guha): A statement showing the revenue derived by the Central Government from opium during 1952-53 and 1953-54 is placed on the Table of the House. [*See* Appendix III, annexure No. 11.]

ARABIC TRANSLATION OF 'SHAKUNTALA'

***540. Shri G. L. Chaudhary:** Will the Minister of **Education** be pleased to state the amount of money that Government had to incur for purchasing the copy-right of the Arabic translation of the Kalidas's Shakuntala?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): The Government of India have purchased the copy-right of six manuscripts including that of *Shakuntala* at a cost of Rs. 80,000 and no apportionment of cost for each of the manuscripts has been made.

REQUEST FOR AID (BIHAR)

***547. Shri S. N. Das:** Will the Minister of **Education** be pleased to state:

(a) whether the Government of Bihar have sought the assistance of the Government of India to implement its scheme for introduction of diversified courses and science in Secondary and Middle Schools;

(b) if so, the extent of assistance sought and the amount sanctioned by the Government of India;

(c) whether any other State also has finalised such a scheme; and

(d) if so, the extent of assistance sought by them from the Centre?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Yes, at the secondary stage.

(b) The extent of assistance sought from the Centre is Rs. 15,91,168 during 1954-55 and Rs. 30,82,750 during 1955-56. No amount has however been sanctioned so far.

(c) The following other States have finalised their Schemes:—

West Bengal, Saurashtra, Hyderabad, Bhopal, Punjab and Tripura.

(d) The extent of assistance sought for by the States mentioned in part (c) is as follows:—

State	Amount asked for	
	1954-55	1955-56
	Rs.	Rs.
West Bengal	16,43,400	1,50,000
Saurashtra	32,26,740 (for 1954-55)	
Hyderabad	51,29,000 (for 2 years)	
Bhopal	1,76,332	3,76,496
Punjab	56,15,713	2,56,000
Tripura	3,04,000	61,000

भूतपूर्व सैनिक

*५४८. श्री विभूति मिश्र : क्या रक्षा मंत्री यह बताने की कृपा करेंगे कि १९४५ से अब तक कितने भूतपूर्व सैनिकों को जमीन और रोजगार दिया गया है ?

The Deputy Minister of Defence (Sardar Majithia): The number of *ex*-Servicemen placed in employment and settled on land colonies since 1945 is as follows:—

(i) Ex-Servicemen placed in Government/Private service.	3,47,488
(ii) Vocational/Technical training.	22,485
(iii) Transport Service.	2,176
(iv) Settled in land colonies.	7,393
TOTAL ...	3,79,540

INSTITUTE OF MOUNTAINEERING

*554. { **Shri Bheekha Bhai:**
Shri Bhakt Darshan:

Will the Minister of **Defence** be pleased to state:

(a) whether it is a fact that with a view to encouraging mountaineering in India Government have set up an Institute at Darjeeling;

(b) the capital budget sanctioned for the Institute;

(c) the number of trainees and the names of the coaches proposed to be selected; and

(d) the requisite minimum qualification for the selection of both trainees and trainers?

The Deputy Minister of Defence (Sardar Majithia): (a) The Himalayan Mountaineering Institute at Darjeeling was inaugurated by the Prime Minister on the 4th November, 1954. It is managed by an independent Executive Council on which both the Government of India and the Government of West Bengal, who contribute towards the expenditure on the Institute, are represented.

(b) The Executive Council of the Institute has approved of an expenditure of Rs. 6,50,000 towards capital expenditure, which is to be shared between the Centre and the West Bengal Government in the ratio of 70:30. A sum of Rs. 1,00,000 towards the Centre's share of capital expenditure has so far been sanctioned.

(c) The courses which will be run have not yet been finalised. For the basic courses, which are being run at present, there will normally be 24 trainees in each course. Details of the instructional staff are given in the statement placed on the Table of the House. [*See* Appendix III, annexure No. 12.]

(d) Trainees must have sound physical fitness with capacity for grasping the essentials of the syllabus. As regards trainers, no minimum qualification has yet been prescribed and selections have been made on an *ad hoc* basis.

FIRE IN I.A.F. STORE AT KHERIA

*555. **Shri M. S. Gurupadaswamy:** Will the Minister of **Defence** be pleased to state:

(a) whether it is a fact that a store room of the Indian Air Force at Kheria (Agra) caught fire in the month of October, 1954;

(b) if so, what was the total loss as a result of this fire;

(c) whether the cause of the fire has been ascertained; and

(d) if so, what was the cause?

The Deputy Minister of Defence (Shri Satish Chandra): (a) Yes, Sir.

(b) to (d). A Court of Inquiry has been ordered to investigate the cause of the fire and assess the loss. The findings of the Court are awaited.

TRIPURA JOURNALISTS' ASSOCIATION

*556. **Shri Dasaratha Deb:** Will the Minister of **States** be pleased to state:

(a) whether any representation has been made by the Tripura Journalists' Association to the Government complaining that no Press Conference is being called by the Chief Commissioner of Tripura, though it was assured by the Minister of Parliamentary Affairs on the floor of the Council of States in April 1954;

(b) whether the said Journalists' Association has demanded any subsidy on air charge for importing newsprint; and

(c) if the answer to parts (a) and (b) above be in the affirmative, what steps Government intend to take in the matter?

The Minister of Home Affairs and States (Dr. Katju): (a) and (b). The Government of India have received copies of certain resolutions passed at the first annual conference of the Tripura Journalists' Association which relate to the holding of regular press conferences and reduction of air freight charges on newsprint.

(c) Government do not consider that there is justification for the grant of subsidy for the air-lifting of newsprint into Tripura as it can be brought by surface route *via* Pakistan. As regards the decision relating to the holding of press conferences in Tripura, the Chief Commissioner will convene such conferences as and when necessary.

वेतन की उच्चतम सीमा

*५५७. **श्री बी० पी० सिंह :** क्या वित्त मंत्री यह बताने की कृपा करेंगे कि :

(क) क्या सरकार अपने कर्मचारियों के वेतन की कोई उच्चतम् सीमा निश्चित करने की बात सोच रहीं हैं ; और

(ख) यदि हां, तो वह निश्चित रकम क्या होगी ?

The Deputy Minister of Finance (Shri M. C. Shah): (a) and (b). Based on the recommendations of the Central Pay Commission, Government have already fixed a maximum limit of Rs. 3,000 as pay for their employees under the Revised Pay Rules.

U.S. TECHNICAL CO-OPERATION AID AGREEMENT

*558. **Sardar Iqbal Singh:** Will the Minister of **Finance** be pleased to state:

(a) the number of Indians who were sent to U.S.A. during the year 1953-54 under the Technical Co-operation Aid Agreement;

(b) the method adopted for their selection; and

(c) the percentage of the cost that had been borne by Government on this account?

The Deputy Minister of Finance (Shri M. C. Shah): (a) Eighty-one.

(b) The applications received from the Central Ministries, State Governments and the Private Sector were first screened by the Ministries concerned with the subject-matter of the training facilities desired. Such of the training proposals as were recommended by the Ministries concerned were referred to the Central Committee of the Planning Commission for final approval. Proposals finally approved by the Central Committee were forwarded to the Technical Co-operation Mission of the United States Government.

(c) The entire cost of training including passage from India to U.S.A. and back was borne by the U.S. Government. The local cost such as internal travel from place of duty to the port of embarkation and the salaries payable to the trainees were borne by the Sponsoring Authorities of the trainees.

CENTRAL BOARD OF PHYSICAL EDUCATION AND RECREATION

***559. Babu Ramnarayan Singh:** Will the Minister of **Education** be pleased to refer to the reply to starred question No. 964 asked on the 15th September, 1954 and state:

(a) the names of the Members of the Central Board of Physical Education and Recreation: and

(b) the rules and procedure with regard to its meetings and other activities?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) and (b). A statement is placed on the Table of the House. [*See* Appendix III, annexure No. 13.]

MINING INDUSTRY

***560. Sardar Hukam Singh:** Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) the number of cases referred by the Controller of Capital Issues for advice to the Ministry for issue of capital to the mining industry during the last one year; and

(b) the number of cases in which applications were granted during the same period?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) Six.

(b) Five

LALIT KALA AKADAMI

***561. Shri Krishnacharya Joshi:** Will the Minister of **Education** be pleased to state:

(a) the main activities of the Lalit Kala Akadamy during 1954 so far; and

(b) the total amount spent during the same period?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) A statement is laid on the Table of the House. [*See* Appendix III, annexure No. 14.]

(b) The total amount spent by the Akadami upto 31st October, 1954, was Rs. 15,981.

ORDNANCE FACTORIES RE-ORGANISATION COMMITTEE

***562. Shri T. B. Vittal Rao:** Will the Minister of **Defence** be pleased to state whether the Report of Ordnance Factories Re-organisation Committee has been submitted to Government?

The Deputy Minister of Defence (Shri Satish Chandra): The Ordnance Factories Re-organisation Committee expect to submit their report within the next week or so.

SHORT SERVICE COMMISSION OFFICERS

*563. **Shri M. S. Gurupadaswamy:** Will the Minister of **Defence** be pleased to state:

(a) the present scale of gratuity granted to Short Service Commission Officers in Army;

(b) whether it is a fact that the scale has been recently decreased; and

(c) if so, the reasons therefor?

The Deputy Minister of Defence (Sardar Majithia): (a) Officers granted Short Service Commission for one year are eligible for a gratuity equivalent to one month's pay of the rank held at the time of termination of service, subject to an over-all maximum of Rs. 900/- for the entire service. Those holding Short Service Commission for 3 or 5 years are eligible for a gratuity at the rate of Rs. 900/- for each completed year of contracted service of 3 or 5 years, as the case may be, irrespective of the rank held.

(b) No, Sir.

(c) Does not arise

LOAN FROM WORLD BANK

*564. **Shrimati Tarkeshwari Sinha:**
Shri D. C. Sharma:
Shri Amjad Ali:
Shri Ibrahim:
Pandit Munishwar Datt Upadhyay:

Will the Minister of **Finance** be pleased to state:

(a) whether negotiations for certain loans from the World Bank have successfully completed;

(b) if so, the amount of loan that the Bank has promised to give to India in each case;

(c) the specific purposes for which the loan is to be given; and

(d) whether it will be given in instalments?

The Deputy Minister of Finance (Shri M. C. Shah): (a) to (d). I presume the hon. Members are referring to the negotiations with the World Bank which commenced recently in Washington in respect of loans to the proposed Indian Industrial Credit and Investment Corporation, and the Trombay Thermal Electric Power Project. As regards the Investment Corporation negotiations are still under way.

Regarding Trombay, the Bank has sanctioned a loan of $16·2 million for the Thermal Power Project of Tatas. This amount can be drawn upon by the Companies executing the project, as and when required, until the closing date, which will be June 30, 1958.

FIRE FIGHTING ARRANGEMENTS IN AGARTALA (TRIPURA)

*565. **Shri Dasaratha Deb:** Will the Minister of **States** be pleased to state:

(a) whether it is a fact that no fire fighting arrangements have yet been made in Agartala though there is a budget sanction for it;

(b) if so, the reasons therefor; and

(c) when fire fighting arrangements will be completed there?

The Minister of Home Affairs and States (Dr. Katju): (a) and (b). There has been some delay in deciding upon the type of equipment to be purchased but arrangements have been made as an interim measure to purchase a suitable Trailor Pump for the purpose. Certain police personnel have also been trained in order to start the fire fighting work.

(c) Every possible endeavour is being made to complete the fire fighting arrangements at an early date.

UNIVERSITY GRANTS COMMISSION

427. **Shri D. C. Sharma:** Will the Minister of **Education** be pleased to state:

(a) the amount of money that the University Grants Commission has given in 1954-55 so far to the various universities in India;

(b) the names of those universities; and

(c) the purpose for which the money has been given?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) to (c). A statement giving the requisite information is laid on the Table of the Sabha. [*See* Appendix III, annexure No. 15.]

PREFERENTIAL DUTY

428. **Shri V. P. Nayar:** Will the Minister of **Finance** be pleased to state:

(a) the total amount collected during the years 1947-48 and 1953-54, as import duty, on goods enjoying preferential duty under the Tariff Act in force, from (i) U.K. and (ii) Colonies of U.K.; and

(b) what will be the amount computed if standard duty were to be realised on these goods instead of preferential duty in the above two years?

The Deputy Minister of Finance (Shri A. C. Guha): (a) The total amount collected as import duty on goods enjoying preferential duty under the Tariff Act was approximately Rs. 9·42 crores and Rs. 17·01 crores during 1947-48 and 1953-54, respectively. Separate figures for U.K. and her Colonies are, however, not available. For the purpose of this calculation, the lower rates of duty on certain articles of British manufacture, *e.g.*, Iron and Steel falling under item 63 of the Tariff Schedule, have been treated as preferential duties. Further, the figures for 1947-48 take into account the direct foreign sea-borne trade of the Pakistan Provinces of Sind and East Bengal prior to the 1st and the 15th August, 1947, respectively.

(b) If standard duty were to be realised on these goods instead of preferential duty, the amount realised would have been approximately Rs. 14·20 crores in 1947-48 and Rs. 21·73 crores in 1953-54.

COTTON

429. **Pandit D. N. Tiwary:** Will the Minister of **Finance** be pleased to state the number of claims made by cotton manufacturers for the refund of cotton duty?

The Deputy Minister of Finance (Shri A. C. Guha): The hon. Member appears to be referring to the number of claims made for payment of drawback of duty on imported cotton used in the manufacture of cloth subsequently exported. The scheme for grant of drawback on imported cotton used in the manufacture of cloth was in force from 26th November, 1953, to 15th June, 1954, on which date it was withdrawn due to the abolition of import duty on raw cotton, and the total number of claims was 8,036.

लघु बचत योजना

४३०. **श्री अनिरुद्ध सिंह :** क्या **वित्त** मंत्री यह बताने की कृपा करेंगे कि :

(क) लघु बचत योजना का प्रचार करने और उसे लोकप्रिय बनाने के लिये क्या तरीके अपनाये गये हैं, और

(ख) इस बारे में ३१, मार्च, १९५४ तक कुल कितनी राशि व्यय की गयी है ?

The Deputy Minister of Finance (Shri A. C. Guha): (a) Publicity is conducted by means of:—

- (i) Newspaper advertisements.
- (ii) Distribution of publicity literature, such as handbills, leaflets, folders, calendars, blotters, book-marks, etc.
- (iii) Display of stickers and posters
- (iv) Hoarding and slogan boards.
- (v) Neon signs, colour changers, blinkers, etc.
- (vi) Cinema slides.
- (vii) Educative films and slides.
- (viii) Gramophone records.
- (ix) Radio.

(b) Expenditure during the last three years has been as follows:

1951-52	...	Rs. 5·2 lakhs.
1952-53	...	Rs. 6·9 lakhs.
1953-54	...	Rs. 5·7 lakhs. (approximately).

PUBLIC WORKS DEPARTMENTS IN MANIPUR

431. **Shri L. Jogeswar Singh:** Will the Minister of **States** be pleased to state:

(a) the number of Public Works Departments now functioning in Manipur;

(b) the allotment of work to each department;

(c) the establishment expenditure of each department;

(d) the purpose and utility of having more than one Public Works Department there; and

(e) whether in the interest of economy, Government propose to retain only one Public Works Department there?

The Minister of Home Affairs and States (Dr. Katju): (a) to (e). Information is being collected and will be laid on the Table of the House, when received.

बचत यूनिट की सिफारिशें

४२२. **श्री एम० एल० द्विवेदी :** क्या गृह-कार्य मंत्री मंत्रिमंडल के निर्णय पर नियुक्त 'बचत यूनिट' की सिफारिशों को कार्यान्वित करने के लिये और कमी किये गये कर्मचारियों को दूसरी नौकरियों पर रखने के लिये मंत्रालय द्वारा जारी किये गये मैमोरेंडम संख्या ७१/७२/५२-डी० जी० एस०, दिनांक २ अक्टूबर, १९५२, के सम्बन्ध में यह बताने की कृपा करेंगे कि :

(क) मैमोरेंडम के पैरा २ में दी गयी विभिन्न शर्तों के अनुसार कितने व्यक्तियों को "ओवर राइडिंग प्रायरटी" दी गयी और उन में से कितनी को नौकरियां दी गयीं और कितनों को अयोग्य बतलाया गया , और

(ख) जिन लोगों को 'बचत यूनिट' की सिफारिशों के अनुसार नौकरी से अलग किया गया, उन में से कितनों ने अपने को एम्पलायमेंट एक्सचेंजों में रजिस्टर कराया और उसके फलस्वरूप कितनों को नौकरियां मिलीं ?

The Deputy Minister of Home Affairs (Shri Datar): (a) and (b). The information is not readily available and will be placed on the Table of the House as soon as it becomes available.

बचत यूनिट की सिफारिशें

४२२. **श्री एम० एल० द्विवेदी :** क्या गृह-कार्य मंत्री मंत्रिमंडल के निर्णय पर नियुक्त 'बचत यूनिट' की सिफारिशों को कार्यान्वित करने के लिये और कमी किये गये कर्मचारियों को दूसरी नौकरियों पर रखने के लिये मंत्रालय द्वारा जारी किये गये मैमोरेंडम संख्या ७१/७२/५२-डी० जी० एस०, दिनांक २ अक्टूबर, १९५२ के सम्बन्ध में यह बताने की कृपा करेंगे कि :

(क) बचत यूनिट की सिफारिशों के फलस्वरूप कर्मचारियों के नौकरियों से निकाले जाने के बाद विभिन्न विभागों में कितने स्थान रिक्त हुए, और इन निकाले गये लोगों को कितने स्थानों पर नौकरियां दी गयीं और कितने स्थान नये व्यक्तियों को दिये गये ,

(ख) इन स्थानों पर नौकरियों से निकाले गये व्यक्तियों के स्थान पर नये व्यक्तियों के नियुक्त किये जाने का क्या कारण हैं , और

(ग) क्या सरकार निम्नलिखित बातें बताने वाला एक विवरण सभा-पटला पर रखेगी :----

(१) जून, १९५४ तक निकाले गये व्यक्तियों की उम्र के पद और काम के वर्गीकरण के अनुसार संख्या, और

(२) जून १९५४ तक निकाले गये व्यक्तियों के अतिरिक्त नियुक्त किये गये अन्य व्यक्तियों की उन के पद और काम के वर्गीकरण के अनुसार संख्या ?

The Deputy Minister of Home Affairs (Shri Datar): Attention is invited to the answer given on the 11th September, 1954, to Ch. Raghubir Singh's Starred Question No. 808, stating that till then 678 persons were declared surplus as a result of the recommendations of the Special Reorganisation Unit, out of whom 571 had been re-employed.

The information required in respect of parts (a) to (c) of the question is not readily available and will be placed on the Table of the House as soon as it becomes available.

MACHINE TOOL PROTOTYPE FACTORY, AMBERNATH

434. Sardar Hukam Singh: Will the Minister of **Defence** be pleased to state:

(a) whether the Machine Tool Prototype Factory, Ambernath is working to its capacity and is able to provide the Ordnance Factories all their requirements in machine tools; and

(b) the number of technicians who are being trained in the Artisan Training School attached to this factory?

The Deputy Minister of Defence (Shri Satish Chandra): (a) It is too early for the Machine Tool Prototype Factory, Ambernath, to work to full capacity since capacity working involves completion of preliminary design work for various types of machine tools. The factory is, however, working to a planned programme and it is expected that by 1957 it will be working to its full effective capacity.

(b) Three hundred students are at present undergoing training at the Artisan Training School. One hundred and seventy-five students have already completed their training of three years. Government are considering a proposal to increase the yearly in-take of students from 100 to 150.

GLIDERS FOR AIR FORCE

435. Shri Krishnacharya Joshi: Will the Minister of **Defence** be pleased to state:

(a) whether there is a need of gliders for the Air Force in India; and

(b) if so, whether the needs of the Air Force have been co-ordinated with the development programme?

The Deputy Minister of Defence (Sardar Majithia): (a) Yes, to a limited extent.

(b) The question is under consideration.

EXPORTS AND IMPORTS THROUGH WAGAH (PUNJAB)

436. Shri D. C. Sharma: Will the Minister of **Finance** be pleased to state:

(a) the quantity of goods exported from and imported to India through Wagah check-post in 1954-55 so far;

(b) the amount of export and import duties collected during the same period; and

(c) the comparative figures of quantity of goods exported and imported through Wagah check-post during 1952-53 and 1953-54?

The Deputy Minister of Finance (Shri A. C. Guha): (a) to (c). A statement giving the required information is placed on the Table of the Sabha. [*See* Appendix III, annexure No. 16.]

REHABILITATION OF *Ex*-SERVICEMEN

437. Shri D. C. Sharma: Will the Minister of **Defence** be pleased to state:

(a) the amount of money advanced to Punjab out of the sum earmarked for grants to States for the purpose of rehabilitation of *ex*-servicemen;

(b) how this amount has been spent by the Punjab Government;

(c) the number of *ex*-servicemen rehabilitated and the nature of employment provided to them; and

(d) the number of *ex*-servicemen yet to be rehabilitated and the manner in which Government propose to rehabilitate them?

The Deputy Minister of Defence (Sardar Majithia): (a) Rs. 1,99,500 has been given to the Punjab Government as grant for the resettlement of *ex*-servicemen.

(b) The Punjab Government have spent Rs. 1,86,000 for developing the *ex*-servicemen's Land Colony in Karnal District and Rs. 13,500 in giving stipends to *ex*-servicemen who underwent Vocational/Technical training in the Ministry of Labour (D.G.R.E.) Institutions.

(c) Four thousand and fifty-two *ex*-servicemen have been resettled since 1950 as under:—

(1)	Land Colonies .	475
(2)	Govt./Private Service .	3,532
(3)	Vocational/Technical training .	45
	TOTAL	4,052

(d) According to statistics available 4,220 *ex*-servicemen require employment assistance and 10,500 want to settle on land. Efforts will be made to resettle as many as possible in Government/Private service and in the Land Colonies.

Ex-SERVICEMEN

438. Th. Lakshman Singh Charak: Will the Minister of **Defence** be pleased to state:

(a) how the allotment of land to *ex*-servicemen is being made;

(b) whether there are still applications from the *ex*-servicemen pending for allotment; and

(c) the total land allotted so far (State-wise)?

The Deputy Minister of Defence (Sardar Majithia): (a) The State Governments allot land to *Ex*-Servicemen's Co-operative Societies which in turn allot it to their members.

(b) The applications pending with the State Governments are as under:—

S. No.	State	No. of applications pending
1.	Uttar Pradesh	258
2.	Hyderabad	55
3.	Madras	422
4.	Mysore	66
5.	Travancore-Cochin	473
6.	Punjab	10,500
	TOTAL .	11,774

(c) The total acreage of land so far allotted to *ex*-service personnel is as follows:—

S. No.	State	Acreage of land allotted
1.	Uttar Pradesh	17,115
2.	Hyderabad	605
3.	Madras	18,591
4.	Mysore	340
5.	Travancore-Cochin	1,156
6.	Punjab	4,750
7.	Rajasthan	11,467
8.	Bhopal	2,440
9.	Madhya Bharat	400
10.	Andhra	6,008
	TOTAL .	62,872

GOLD DETECTOR

439. Shri Krishnacharya Joshi: Will the Minister of **Finance** be pleased to state:

(a) whether the instruments known as "gold detectors" sent to customs houses at Bombay and Calcutta are working satisfactorily; and

(b) if so, how many cases have been detected so far with their aid?

The Deputy Minister of Finance (Shri A. C. Guha): (a) The instrument has been found to work satisfactorily.

(b) The gold detector at Bombay has been responsible for the detection of nine cases in which fourteen persons were involved. One case involving nine persons was detected in Calcutta with the aid of the gold detector there.

FOREIGN INVESTMENT IN TOBACCO INDUSTRIES

440. Shri C. R. Chowdary: Will the Minister of **Finance** be pleased to state:

(a) the amount of foreign investment in Tobacco industries in India; and

(b) the amount of profits remitted in the years 1952, 1953 and 1954 so far on that account?

The Minister of Finance (Shri C. D. Deshmukh): (a) Rs. 15·86 crores as on the 1st July, 1954. This figure is exclusive of investments made after the 30th June. 1948. in the form of goods and equipment and re-investments of profits.

(b)	1952-53	Rs. 2·74 crores.
	1953-54	Rs. 0·78 crores.

Remittances of profits according to calendar years are not available.

LIGNITE DEPOSITS

441. Shri C. R. Iyyunni: Will the Minister of **Natural Resources and Scientific Research** be pleased to state:

(a) whether any lignite deposits have been found in South India recently;

(b) if so, where; and

(c) what is the quantity of lignite obtainable from these fields?

The Minister of Education and Natural Resources and Scientific Research (Maulāna Azad): (a) to (c). A statement giving the information available is laid on the Table of the House. [*See* Appendix III, annexure No. 17.]

FLOOD RELIEF

442. Shri S. C. Samanta: Will the Minister of **Home Affairs** be pleased to state:

(a) whether our embassies abroad gave due publicity to the occurrence of floods in India;

(b) whether it is a fact that some of the embassies abroad did not permit the local people there to collect funds for this purpose; and

(c) if so, the names of the places where this occurred?

The Deputy Minister of Home Affairs (Shri Datar): (a) to (c). Information is being collected from Indian Missions abroad and will be laid on the Table of the House in due course.

औद्योगिक वित्तनिगम

४४३. सेठ गोविन्द दास : क्या वित्त मंत्री यह बताने की कृपा करेंगे कि :

(क) औद्योगिक वित्त निगम ने ऐसे उपक्रमों को कितनी राशि दी हैं, जो परस्पर सम्बद्ध हैं ; और

(ख) इन उपक्रमों के प्रधान प्रबंधकों या संचालकों के नाम क्या हैं ?

The Deputy Minister of Finance (Shri A. C. Guha): (a) and (b). It is not quite clear what the hon. Member means by connected concerns. However, a statement showing the required information in regard to concerns which are connected through their Managing Agents is enclosed. [*See* Appendix III, annexure No. 18]. The total amount sanctioned to these 18 concerns is Rs. 312·5 lakhs, out of the total loan of Rs. 20,73,75,000 sanctioned to 108 companies by the Industrial Finance Corporation during the past six years.

शिक्षा पर औसत व्यय

४४४. सेठ गोविन्द दास : क्या शिक्षा मंत्री यह बताने की कृपा करेंगे कि दिल्ली में निम्नलिखित वर्गों के प्रत्येक छात्र की शिक्षा पर कितना औंसत व्यय पड़ता है :---

(१) स्नातकोत्तर कक्षायें ;

(२) स्नातक कक्षायें ;

(३) उच्चतर माध्यमिक ;

(४) मिडिल कक्षा ; और

(५) प्रारंभिक कक्षा ?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (i) to (v). It is not possible to give expenditure figures according to various stages of Education, *viz.*, Master's Degree Stage, Bachelor's Degree Stage, Higher Secondary Stage, Middle Stage and Primary Stage. However, the average annual cost per student in different categories of institutions is as follows:—

(i) Arts and Science Colleges	Rs. 337/-
(ii) Higher Secondary Schools	Rs. 116/-
(iii) High Schools	Rs. 91/-
(iv) Middle Schools	Rs. 65/-
(v) Primary (including Junior Basic) Schools	Rs. 67/-

TERRITORIAL ARMY

445. **Shri Keshavaiengar:** Will the Minister of **Defence** be pleased to state the composition of the Mysore State Advisory Committee set up to promote recruitment to the Territorial Army?

The Deputy Minister of Defence (Sardar Majithia): A copy of the Government of India Resolution No. 1254 dated the 7th November, 1953, showing the composition of the Committee is placed on the Table of the House. [*See* Appendix III, annexure No. 19.]

TERRITORIAL ARMY

446. **Shri Keshavaiengar:** Will the Minister of **Defence** be pleased to state:

(a) whether Coorg has a representative on the Advisory Committee to promote recruitment to the Territorial Army of any adjoining State; and

(b) if so, the name of that representative?

The Deputy Minister of Defence (Sardar Majithia): (a) Coorg has no representative on the Advisory Committee, as no T.A. unit has been raised in that State.

(b) Does not arise.

ORPHANAGE SCHOOLS IN MANIPUR

447. **Shri Rishang Keishing:** Will the Minister of **Education** be pleased to state:

(a) the amount of money spent by the Government of India for opening of orphanage schools in Manipur from 1952 to 1954 so far;

(b) the number of orphanage schools in Manipur and the number of orphans therein;

(c) the expenditure incurred by Government annually on each of these schools; and

(d) the number of such schools to be opened in the years 1954 to 1956?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) to (d). *Nil.*

INDIAN MILITARY MISSIONS

448. **Shri T. K. Chaudhuri:** Will the Minister of **Defence** be pleased to state:

(a) the names of the countries to which we have accredited Military Missions or Military Attaches along with the Diplomatic Missions that we already have in those countries;

(b) whether the services of the Military officials who serve on these Missions are included in their period of active service;

(c) whether the pay and emoluments of these officers are met from the Defence Budget or from the External Affairs Ministry's Budget; and

(d) the number of officers who serve on such Missions abroad?

The Minister of Defence Organisation (Shri Tyagi): (a) A list of the countries where we have service attaches is laid on the Table of the

House. [*See* Appendix III, annexure No. 20.]

(b) Since active service signifies service in an operational area, service of these officers in diplomatic missions is not included in their period of active service.

(c) Pay and allowances of these officers are met from the Defence Service Estimates.

(d) The total number of such officers is 87 (eighty-seven).

AIR FORCE

450. Shri M. S. Gurupadaswamy: Will the Minister of **Defence** be pleased to state:

(a) whether there is any proposal to start a new training scheme for apprentices joining Air Force;

(b) if so, what are the main features of the scheme; and

(c) by what time it will be started?

The Deputy Minister of Defence (Sardar Majithia): (a) No, Sir.

(b) and (c). Do not arise.

EXCAVATION (NALAGARH)

451. Shrimati Tarkeshwari Sinha: Will the Minister of **Education** be pleased to state:

(a) whether excavation carried on in Nalagarh, have thrown further light on the missing link between the decline of the Indus Valley civilization and the rise of Mauryan Empire;

(b) if so, whether in view of the valuable discoveries being made, Government propose to conduct an intensive and large-scale exploration in that area; and

(c) if so, what will be the approximate expenditure involved in the exploration work?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) The Central Government have not carried out any excavations in Nalagarh. They have, however, been excavating in Rupar (Punjab) about five or six miles from the border of Nalagarh. The result of the excavations is contained in "Indian Archaeology, 1953-54, A Review", copies of which are available in the Library of the Parliament.

(b) The Central Government have already explored a few sites in Nalagarh. Intensive exploration may be continued in that area as a part of a larger plan of exploring the river valleys of the Punjab.

(c) No estimates can be given at this stage.

MILITARY DAIRY FARMS

452. Sardar Iqbal Singh: Will the Minister of **Defence** be pleased to state:

(a) what is the total production of the Indian Military Dairy Farms;

(b) whether this production is sufficient to meet the requirements of the Armed Forces;

(c) if so, whether there is any excess production diverted to civilian consumption;

(d) if, however, the answer to part (b) above is in the negative, whether the deficit is made up by purchase of milk and dairy products from the open market; and

(e) whether Government have made any comparison of production costs with those of the civilian dairy farms in the areas where the military dairy farms are situated, with a view to seeing whether the latter are being run economically?

The Deputy Minister of Defence (Sardar Majithia): (a) The total production of the Indian Military Dairy Farms in September last was as under:—

(i) Milk	24,33,243 lbs.
(ii) Cream	25,755 lbs.
(iii) Butter	18,675 lbs.

This is a fair average.

(b) to (d). Where production farms are located, it is usually sufficient, but owing to seasonal dryage of animals during summer, there is an occasional deficit which is made up by purchase from the open market. During winter the production is surplus to requirements and is disposed of to the best advantage to the State including sales to civilians.

(e) Since there are no civil dairy farms knowing that work with the same methods of production, processing, delivery and accounting as the Military Farms, no correct comparison is possible. However, almost all Military Farms are running at a profit.

BASIC EDUCATION

453. Shri Ram Dass: Will the Minister of **Education** be pleased to state:

(a) the number of Primary Schools, State-wise, that have been converted into Basic Schools during the years 1952-53 and 1953-54;

(b) the number of Basic Training Institutions, State-wise, for junior and senior teachers; and

(c) the amount of the subsidy that the Centre has given, State-wise, towards the expansion of Basic Education during the years 1952-53 and 1953-54 and 1954-55 upto September, 1954?

The Minister of Education and Natural Resources and Scientific Research (Maulana Azad): (a) and (b). The matter concerns the State Governments.

(c) A statement is laid on the Table of the House. [*See* Appendix III, annexure No. 21.]

अफीम

४५४. श्री आर० सी० शर्मा : क्या वित्त मंत्री यह बताने की कृपा करेंगे कि :

(क) मध्य भारत में, १९५२ में अफीम की खेती कितनी एकड़ भूमि में की गई थी ,

(ख) अफीम की खेती पर वहां के कितने परिवार निर्भर हैं ;

(ग) क्या यह सच हैं कि हाल में इस की खेती पर कुछ प्रतिबन्ध लगाये गये हैं ;

(घ) यदि सच हैं, तो इन प्रतिबन्धों का स्वरूप क्या हैं ,

(ङ) अफीम की खेती में काम न आने वाली जमीन का क्या उपयोग किया जायेगा , और

(च) अफीम के विस्थापित काश्तकारों के परिवारों की बेकारी की समस्या का क्या हल सोचा जा रहा हैं ?

The Deputy Minister of Finance (Shri A. C. Guha): (a) 19,994 acres were placed under opium cultivation in Madhya Bharat during 1953-54

(b) The requdred information is not available with the Government. 38,263 cultivators were, however, granted licences during 1953-54

(c) and (d). No new restrictions have been imposed this year except that there may be a reduction of acreage under opium cultivation. Licences are issued in accordance with certain principles which have been laid down by the Government of India and these principles have been enforced during the current season, *i.e.* 1954-55 (from 1-10-54 to 30-9-55).

(e) and (f). The cultivators can change over to other cash crops such as sugar cane, wheat, barley, gram, cotton etc., and as such the question of unemployment does not arise.

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LOK SABHA DEBATES

Dated....27.11.2014

(Part II—Proceedings other than Questions and Answers)

LOK SABHA

Tuesday, 30th November, 1954.

The Lok Sabha met at Eleven of the Clock

[MR. SPEAKER *in the Chair*]

QUESTIONS AND ANSWERS

(*See Part I*)

12 NOON.

PAPERS LAID ON THE TABLE

(i) REPORT OF NINTH ANNUAL MEETING OF BOARDS OF GOVERNORS OF INTERNATIONAL MONETARY FUND AND INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT.

(ii) REPORT ON MEETINGS OF THE CONSULTATIVE COMMITTEE ON ECONOMIC DEVELOPMENT IN SOUTH AND SOUTH-EAST ASIA.

The Deputy Minister of Finance (Shri M. Y. Shah): I beg to lay on the Table a copy of each of the following Reports:—

(i) Report of the proceedings of the Ninth Annual meeting of the Boards of Governors of the International Monetary Fund and the International Bank for Reconstruction and Development, held in Washington in September, 1954. [*See* Appendix III, annexure No. 8]; and

(ii) Report on the meetings of the Consultative Committee on Economic Development in South and South-East Asia held in Ottawa in October, 1954. [*See* Appendix III, annexure No. 9.]

STATEMENTS SHOWING ACTION TAKEN BY GOVERNMENT ON ASSURANCES ETC.

The Deputy Minister of Finance (Shri A. C. Guha): On behalf of Shri Satya Narayan Sinha, I beg to lay on the Table the following statements showing the action taken by the Government on various assurances, promises and undertakings given by Ministers during the various Sessions shown against each:

(1) Supplementary Statement No. II, Seventh Session, 1954 of the Lok Sabha. [*See* Appendix III, annexure No. 1]

(2) Supplementary Statement No. VIII, Sixth Session, 1954 of the Lok Sabha. [*See* Appendix III, annexure No. 2]

(3) Supplementary Statement No. XIII, Fifth Session, 1953 of the Lok Sabha. [*See* Appendix III, annexure No. 3]

(4) Supplementary Statement No. XVIII, Fourth Session, 1953 of the Lok Sabha. [*See* Appendix III, annexure No. 4]

(5) Supplementary Statement No. XXIII, Third Session, 1953 of the Lok Sabha. [*See* Appendix III, annexure No. 5]

(6) Supplementary Statement No. XXII, Second Session, 1952 of the Lok Sabha. [*See* Appendix III, annexure No. 6]

(7) Supplementary Statement No. XXIII, First Session, 1952 of the Lok Sabha. [*See* Appendix III, annexure No. 7]

REPORT OF RAILWAY CONVENTION COMMITEE, 1954

Shri M. A. Ayyangar (Tirupati): I beg to present the Report of the Railway Convention Committee, 1954.

MOTION FOR ADJOURNMENT

DETENTION OF POLITICAL PRISONERS IN ANDHRA

Mr. Speaker: In connection with the adjournment motion tabled yesterday by Shri Gopalan and Shri Raghavaiah, I had called for a factual statement and I have received a communication from the Prime Minister which I will read to the House:

> "With reference to the motion for adjournment of which notice was given by Shri A. K. Gopalan and Shri P. V. Raghavaiah, this morning, I got into touch on phone with the Governor of Andhra State. The Governor has informed me that he issued orders two days ago......"—the letter is dated yesterday—"for the release of all the prisoners who have been convicted in connection with the Wasteland and Toddy Tappers' satyagraha in Andhra. Apparently these orders were issued because the stayagraha was withdrawn. Orders were issued two days ago and have either been given effect to already or will be given effect to in another day or so."

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL—*contd.*

New Clauses 21A, 22A and 24A

Mr. Speaker: Now, the House will proceed with the clause-by-clause consideration of the Bill further to amend the Code of Criminal Procedure, 1898, as reported by the Joint Committee.

Before the House proceeds with further consideration of the Code of Criminal Procedure (Amendment) Bill, 1954 I would like to dispose of amendments Nos. 369, 53, 287, 372 and 380 proposing new clauses 21A, 22A and 24A. All these amendments are, to my mind, out of order as they seek to amend sections of the principal Act not touched by the amending Bill.

Before we proceed further I shall put to the vote of the House clause 22 and amendments thereon, which were held over yesterday.

The House will thereafter resume further discussion on clauses 25, 97 and 114. Of the five hours allotted to this group of clauses, two hours and eight minutes have already been availed of yesterday and two hours and 52 minutes now remain. This would mean that the discussion on this group of clauses will conclude by about 3-15 P.M. when the clauses will be put to the vote of the House.

The House will thereafter take up consideration of the next group which consists of clauses 26 to 38 for which five hours have been allotted.......

Shri Sadhan Gupta (Calcutta-South-East): May I make one submission? There was an amendment proposed by Shri Pataskar and the Government had indicated...

Mr. Speaker: I am going to put all those amendments to the vote of the House......

Shri Sadhan Gupta: There would be a special debate on that particular amendment and amendments to that amendment. What happened was this. Mr. Pataskar moved an amendment yesterday which was not circulated and the Chair allowed it because Government had accepted it. As it was a new amendment it was thought necessary that Members should have time to consider it and propose amendments and put in their observations. Therefore, the Chair promised a debate....

Mr. Speaker: What does hon. Member want to say? Perhaps he wants to explain the amendment. If it is so, he may do so. There is another amendment by Mr. Deshpande......

Shri Raghavachari (Penukonda): There is another amendment, No. 571 and I have submitted......

Shri Altekar (North Satara): I would like to know whether Mr. Pataskar's amendment was regularly moved in this House.

Mr. Speaker: Yes, it was.

Pandit Thakur Das Bhargava (Gurgoan): With your permission, may I just point out one thing? When the amendment No. 372 and other amendments relating to the clauses which have been held outside the scope were considered on a previous occasion, the Deputy-Speaker was pleased to say that he will hear such of the hon. Members as have given notice before he disallows them. Even yesterday, the Chair was pleased to say that he would be pleased to hear hon. Members who had given notice of amendments in regard to sections which were not in the Bill. Today, without hearing them, you have been pleased to say that they are out of order. I request that we may be allowed to convince the House; they are so vitally connected with the other sections that they should be allowed. We have not been heard on this point.

Mr. Speaker: I am prepared to hear them, but I feel *prima facie* that, excepting the general relation of the various sections so far as the law on criminal procedure is concerned, there is no particular relation of these amendments with the sections that are now sought to be amended by these amendments. Those amendments are—I am saying this after having read the proceedings—No. 369 by Pandit Thakur Das Bhargava, Nos. 53, 287, 372 and 380 seeking to amend sections 161 and 172 of the principal Act by adding new clauses to the Bill.

Shri R. D. Misra (Bulandshahr Distt.): What about amendments Nos. 287 and 53?

Mr. Speaker: I am coming to them. These clauses are not touched by the amending Bill.

An Hon. Member: These amendments relate to section 161.

Mr. Speaker: This is what the Deputy-Speaker said:

> "I find some of these amendments are proposing new clauses 20A, 22A, 23A and 24A. The objection to these clauses, as was already referred to by the hon. Speaker at an earlier stage, is that these sections are not touched by the amending Bill, nor do they flow from any clause of the amending Bill nor are they ancillary or auxiliary to them......"

This is the opinion expressed by the Deputy-Speaker. He added:

> "I would hear the hon. Members on this point as to how it will be useful......"

and not as to how they are in order—

> " ...To cut short the time, I would suggest this course. This is my present view. Clauses 20A, 21A, 22A, 23A and 24A are liable to the same objection as pointed out, that they refer to sections which are not the subject-matter of the Bill. Further, I consider at this stage that they do not flow from nor are consequential to the amendments that have been proposed now nor are they ancillary or auxiliary. This is only my provisional opinion."

This is what he said. Proceeding further, he said:

> "I shall give an opportunity to the Members who want to see that these amendments are accepted by the House or are placed before the House. They will not only speak about their own amendments, but on the other amendments and on the clauses including the new clauses which they want to insert. I do not want to give two opportunities to them to discuss this point. Each in his

[Mr. Speaker.]

own turn...... will have an opportunity to discuss all the clauses together."

So, this request of the hon. Member to have a second opportunity only in respect of these amendments or the admissibility of these amendments practically seems to have been shut out. There was a general discussion which was allowed, including discussion in respect of these amendments.

Pandit Thakur Das Bhargava: Yesterday, when we were allowed an opportunity to speak, the hon. Chairman said that he would give us an opportunity to come to a decision. He did not consider this point. On the contrary, he said that he would give us an opportunity of being heard on these amendments. It means that whatever we submitted at that time was not considered either by the Chairman or by the Deputy-Speaker. So far, no responsible officer of the Parliament, either the Speaker or the Deputy-Speaker or the Chairman has been pleased to consider it from that stand point. I maintain that sections 161 and 162 are very closely related and in fact section 161 has been referred to in section 162. Therefore, this is a matter which should be allowed according to the ruling of the Speaker himself. The hon. Speaker was pleased to say that such amendments as are inter-connected or are vitally connected with the amendments will be allowed. Either what I have submitted may be looked into or I may be given an opportunity to point out how this is relevant and how without amending section 161, we are not justified in amending section 162. In view of the amendment which authorise the prosecution to contradict the prosecution witness himself by his statement under section 161(3), it is necessary to change section 161(3). You are allowing a new amendment which goes to the root of the matter. If the hon. Speaker wants, I shall give more reasons why section 161(3) should be allowed to be amended along with section 162. As regards section 172, the hon. Home Minister himself in his original Bill had included section 172. Unless section 172 is amended, there is no use of amending section 162. These are vitally connected and the one cannot be discussed without the other. If the hon. Speaker gives another opportunity or wants to hear in full, I shall give further reasons. At least the arguments which we have put forward, which are so clear and obvious, must be considered either by the Speaker or the Deputy-Speaker whether section 161(3), 162 and 172 are connected or not. Unless that is done, I do not think that the words of the hon. Speaker will be honoured so far as these amendments are concerned. I can understand that they are outside the scope of the amended clauses, as the hon. Deputy-Speaker pointed out, and that they do not form part of the amended sections. But they are so vitally connected with the amendment to section 162 that they should be taken into consideration. Otherwise, there is no meaning in amending section 162. What is section 162 ? That what is contained in section 161 is the only matter with which section 162 is connected. If you amend section 162, it will be utilised for a particular purpose, for the purpose of contradiction. You must be able to say what is the matter which will be utilised for the purpose. That matter is given in section 161 (3). Unless you amend section 161 (3), you will not be in a position to amend section 162. Unless we know what is the matter with which a person will be contradicted, we are not justified in saying that a person should be allowed to be contradicted. The Sub-Inspector may write one part of the statement in a perfunctory manner and leave out others. I only wanted that the full statement should be taken down in the presence of the person, in the language of that person. Unless that is done, we have no valuable material with which to confront the prosecution witnesses or any other witnesses. Therefore, so far as section 162, which we are amending in a serious manner, in a delicate manner, is concerned, that section should not be allowed to be considered unless section 161 (3) is allowed to be considered. Moreover, under section 162, my complaint is that these *zimnis* and other statements are substituted. They are not written on papers with any consecutive numbers or signed by any higher official. There is a possibility for these statements to be substituted by the Sub-Inspectors. Unless it is ensured that the statements under section 161 (3) are good, you cannot give this right to the prosecution to contradict the prosecution witnesses and others. Therefore, in the interests of speedy trial, in the interests of good trial, it is absolutely necessary that before amending section 162, the section relating to this statement should be amended so that we may be on solid ground.

Mr. Speaker: I am not concerning myself at present with the merits, but only with how far these amendments would be in order and within the scope of the Bill. I understood the hon. Member to say that because of the amendment of Shri Pataskar....

Pandit Thakur Das Bhargava: The amendment of the hon. Home Minister himself. In the Amending Bill, they are amending section 162. The effect of the amendment is that they are giving the prosecution the right to contradict the prosecution witnesses with the statement under section 161 (3). Section 161 (3) is referred to specifically in section 162.

Mr. Speaker: Whatever that may be the subject may be connected remotely if you take into consideration the whole procedure for trials, taking evidence, recording statements and all that. It does not directly flow out of any amendment here suggested. Obviously, all these sections when they give a particular procedure are interconnected: but not in the sense that you cannot alter the one without altering the other. I am unable to understand the point so far as the admissibility of the amendment is concerned. It may be an argument to bring the law according to the hon. Member's idea in a consistent manner. That is a different thing.

Shri N. C. Chatterjee: (Hooghly). May I point out that it is not remotely connected, but very closely and proximately connected? If you will kindly look at section 162, it says:

> "No statement made by any person to a police-officer in the course of an investigation under this Chapter shall......be signed by the person making it;"

Then, the original proviso

> "Provided that, when any ness is called for the prosecution in such inquiry or trial whose statement has been reduced into writing as aforesaid, the Court shall on the request of the accused, refer to such writing and direct that the accused be furnished with a copy thereof, in order that any part of such statement, if duly proved, may be used to contradict such witness...."

Now, the suggestion is that certain words should be inserted after the words "may be used by the accused." The words are "and with the permission of the Court, by the prosecution" That means that the prosecution will now be allowed to use it for the purpose of contradiction. That is a very vital change. What we are pointing out is this. The opening words of the section are: "No statement made by any person to a police officer..." That means, the statement as recorded under section 161(3). What Pandit Thakur Das Bhargava says is this. Really no statement recorded under section 161(3) shall be used in a particular manner. If you are going to enlarge the scope of the section and allow the prosecution to use it for the purpose of contradicting its own witness, certain safeguards should be introduced in section 161(3) so that

[Shri N. C. Chatterjee]

such a recording cannot be tampered with, the recording may be properly made, and its correctness may be ensured. Therefore I submit that it is not remotely connected. It is integral and very closely and approximately connected. At this stage, it is vital that we should consider his amendment on the merits with regard to section 161 (3).

Mr. Speaker: That is amendment No. 369. What about the others?

Shri R. D. Misra: As regards my amendments numbers 53 and 287 I have to submit that section 162 refers to a statement which is not signed. This is the statement made before the police, and it is now sought to be used for contradicting the witness both by the accused and the prosecution. We have to see what the statement is. There was the word 'truly' in the Act of 1882. That word was taken out in the Act of 1898. The rulings given by the different High Courts say that after the omission of the word 'truly' from the Act, witnesses are not obliged to speak the truth before the Sub-Inspector. They cannot be prosecuted under section 179 or 203, etc. They may say whatever they like; they may give a false answer. When you are going to provide that the witnesses are to be confronted with their statements before the police, these statements must now be true. So, the word 'truly' should be put in there so that the witnesses may at least know that hereafter they will have to give true answer to the police officer. They should be given a copy of the statement as a safeguard so that they may know that whatever statement they made, whether they gave a false statement or a true one was recorded by the police officer. Afterwards, they can easily be confronted with it under section 162. My amendments are relevant. When we are going to utilise this statement to confront the witnesses in the witness box both on behalf of the prosecution and the accused, they should know that they will be confronted with this statement of theirs. So, they are inter-connected and these amendments are in order. Without amending section 161, amendment of section 162 is not proper. In the original Bill Sections 161 and 162 were sought to be amended. Now the Joint Select Committee has dropped section 161 altogether and has confined itself to the latter section. According to your ruling our amendments are not proper. In view of the fact that sections 161 and 162 are inter-connected, my submission is that my amendments are quite proper.

Another important fact which I wish to bring to your notice in this connection is that when we move amendments, we are not allowed to read them out. We only pass on a chit indicating their number. That is all right so far as the saving of the time of the House is concerned. Thereafter we are not given opportunity to move them or to speak on them. That is all right; everybody cannot speak. Then, at the time of voting those amendments are not even read before the House. Is it proper? I want your ruling on these points.

Mr. Speaker: This is about amendments Nos. 369 and 387. Then there are two others: 372 and 380.

Pandit Thakur Das Bhargava: I have already spoken on No. 372—that relates to *zimnis*.

Mr. Speaker: I must admit that I am not a competent judge about criminal procedure, as I had very little or no practice in criminal courts. From what Pandit Thakur Das Bhargava has said it appears to me that there is some *prima facie* case for me to reconsider and find out how far there is inter-connection between the two sections. If there is substantial inter-connection I might reconsider it. What I propose just now to do is to go through what he has said, what Mr. Chatterjee has said and what Mr.

Misra has said, reconsider the matter and decide finally. If any other hon. Member wishes to say anything on the point, he may. I am not going to discuss as to whether the law proposed to be enacted is proper or not—that is not my concern. So, if any other hon. Member has to say anything he may say it briefly. There will be no further opportunity. But further discussion should not extend beyond five minutes in all.

Shri Raghavachari: Section 162, as now proposed in the new amendment, is that the prosecution can cross-examine a witness in the way provided for in section 145 of the Evidence Act. If you see section 145 of the Evidence Act you will find that it relates to a previous statement of a witness in writing, or a statement of a witness reduced to writing. The first one, the previous statement of a witness in writing relates to any document he has himself written or signed. But the other statement is interpreted to cover all previous depositions where the person or the witness has the right to hear what is written down and then sign after correcting. Those are the two categories.

Now the third category as provided in section 145 is sought to be added—any statement recorded by a police officer. It is not in his writing, is not signed by the witness and he does not know what the investigating officer has written down. Under these circumstances it would be essential to safeguard the interests of the witnesses.

Shri Sadhan Gupta: Sir, I also beg to support Pandit Thakur Das Bhargava, because the inter-connection between sections 161(3) and 162 is quite clear. Now, Sir, section 161(3) is the section which requires a police officer to write down a statement of the witness he examines. Section 162 restricts the use of those statements to very limited purposes. It restricts the use of those statements only in favour of the accused, as it stands at present. It is obviously implied that if the police officer does not take down the statement properly, it is really the prosecution that stands to suffer and the accused does not stand to suffer. Therefore there is no need to provide safeguard about correct recording and so forth.

Now, when we are seeking to amend this clause because of the fear that it may be used to destroy the evidence in favour of the accused, to destroy the evidence which a prosecution witness may happen to give in contradiction with, or in discrepancy with his statement. When that is provided, I submit there is a case for providing safeguards in section 161 too, because the whole scheme with which section 161 was enacted is being disturbed now. The prosecution is being allowed the advantage of the statements and therefore some obligation must be put on the prosecution and the agents of the prosecution, the investigating machinery, to record the statement in such manner that it will be tamper-proof and cannot be subsequently altered to the prejudice of the accused. That is why there is a very substantial inter-connection between the two parts of this Code and really a change in section 162 is altering the whole scheme. Therefore any amendment to section 161 would be ancillary or auxiliary to amendment to section 162.

Mr. Speaker: Has the hon. the Home Minister anything to say on this point?

The Minister of Home Affairs and States (Dr. Katju): Sir, I should like to leave this matter entirely to your discretion, because speaking for myself the things are unconnected. But in as much as different views may be taken, it is desirable that you yourself should consider it. I do not wish it to be said, you have not been sitting here, but I was sitting here. It is not as if I am the individual who is most anxious to put all sorts of objections.

[Dr. Katju]

I do not wish to get that odium. I leave the matter entirely to you.

Sardar Hukam Singh (Kapurthala—Bhatinda): Could you give me two minutes to speak on this?

Mr. Speaker: It is no question of odium at all. The Chair, in the beginning, has given the general outlines within which the admissibility of amendments is to be judged or decided. Within the scope of what the Chair had said, whether the hon. Members would enlighten the Chair as to whether this amendment particularly is connected or not—that is the main question.

Dr. Katju: Which one is this amendment? In my view, every section of the Criminal Procedure Code deals with a separate and independent matter; and there are very few matters which are connected. Take, for instance, the section dealing with warrant case proceedings. If I were to take out one section, then probably, adjustment of the remaining sections may be desirable. Otherwise, they are absolutely independent of one another; particularly so, in regard to the group of sections which are under discussion, *viz.* section 151, 161, 162, 163 and 164. Therefore, my personal opinion is this that if there is an amendment made by Government in the Bill under section 161, then section 162 is not affected. And if anybody wants to have in this, amendment to section 163, then it is quite separate and independent. My hon. friend Pandit Thakur Das Bhargava—I do not know exactly whether that is the amendment which is under consideration now—is anxious that the police may record the diary in a particular fashion. That has nothing to do with section 162 or 161. That is my opinion. But as I said earlier, I would defer to your judgment about it and not argue about it.

Pandit Thakur Das Bhargava: It would have been better if the hon. Minister had been pleased to consider whether section 162 is connected with section 161, while he was considering other section. In section 162, there is a mention of what is contained in section 163.

Mr. Speaker: I would consider all that. There need be no repetition now.

Sardar Hukam Singh: May I say a few words on this? I am also of the view that these sections are so closely connected with each other that one cannot be amended unless the other sections are also considered. In section 162, there is a clear mention of the statement as it was recorded, and unless we consider that as well, we cannot amend the other section separately. It was the prerogative of the accused only that he could confront a witness with the recorded statement, because it was assumed that it was not the statement of the witness always, but it was almost the statement of the police officer or the investigating officer, of what he wanted witness to say, and not of what the witness had actually said. So, if there was something favourable even in that statement, the accused was entitled to get benefit out of it. But now we are giving a right even to the prosecution to cross-examine the witness and confront him with the statement that he had deposed something in their favour, and thus giving worth to that statement, which we all know is not recorded on the spot or according to the dictation of the witness. If these statements are to be taken as amounting to some evidence, which can be put forth to the witness again with a view to confronting him, then certainly we should make sure that it is his statement. We have to see that really he made it. Unless we make an amendment to this effect and satisfy ourselves that there is some guarantee that he deposed like that, it would be unfair to make this amendment to section 162, without making any change in section 161(3). If we make this amendment and give this allowance to the prosecution, then we will be landing ourselves in very great difficulty, and the accused would be handicapped to a great extent. Therefore, it is very essential that section 161(3) must be amended first, and then some credit may be given to these statements, before the witness can be confronted with what has been recorded under section 162.

Dr. Katju: May I just say one word? The whole storm has arisen, because an amendment has been put forth by the Select Committee to section 162, and that is that with the permission of the Court, the witness may be cross-examined on the basis of a diary statement. Now my hon. friend there insists through this amendment that the diary statement should be recorded in a particular manner, and so on and so forth. The current procedure, as it stands, permits the contradiction of a witness at the instance of the accused, on the basis of the same diary statement. The proposal of the Select Committee is that the advantage that is given to the defence should also be given to the prosecution, with this reservation that the prosecution can only cross-examine in a criminal matter, only with the permission of the Court, *i.e.* cross-examine not a defence witness, but their own witness, with the permission of the Court. Now, my hon. friend has brought in an amendment to section 161 also, which is not touched by the Select Committee at all, and which deals with a entirely different matter. If we are going to lay down how the diary is to be prepared, how it is to be written, on what it is to be written, and secondly that every statement should be absolutely detailed, that every statement should be in the very language of the witness who has been examined and interrogated, and so on, the result of that will be, according to my submission, that the investigation will become an absolutely intolerable affair, which will be lengthy and prolonged. Everybody has said here that the investigation should be an efficient one, a quick one, and a speedy one, but if we are going to lay down all these things, then the results will be entirely the reverse.

As I have already said—and I repeat it for the fourth time now—I would beg of you to read this thing for yourself and do what you think proper.

Mr. Speaker: I should like to have a little guidance in respect of one or two points. I have been under an impression, from what little I had to do with the Criminal Procedure Code in my early days, that if a prosecution witness turned hostile, the prosecution was allowed to cross-examine him on his previous statement made before the police and that was held to be admissible.

Some Hon. Members: No, no.

Mr. Speaker: I do not know the present position. That was the position then. I am talking of the position about 1916-17.

An Hon. Member: Days have changed.

Mr. Speaker: Maybe, but I carried that impression. But it appears that that impression is now wrong.

Shri S. S. More: It is correct.

Mr. Speaker: It was so at that time. I wanted to clear my doubts. Is it the position today, without this amendment, that even if a prosecution witness turns hostile, the prosecution cannot cross-examine him?

Dr. Katju: On the basis of the diary statement. The suggestion is that when the witness turns hostile, he may be cross-examined with the permission of the Court, and he may be put hundreds of questions of all sorts.

Mr. Speaker: I want to know the present position without the amendment.

Dr. Katju: They can put to him hundreds of questions, but they cannot put to him this question: "Now, you are making this statement. Did you or did you not say before the police something else? Or what did

[Dr. Katju]

you say before the police?". That is the distinction. And that distinction is sought to be removed by the Select Committee, so that when a hostile witness is cross-examined, the question may be put to him: "You are saying now black. Did you say the same thing before the police, or did you say something else?". That is all that is done.

Mr. Speaker: I think there has been sufficient argument now.

Shri Raghavachari: With your permission, I would like to correct the impression, and so submit this. The position even today is that a prosecution witness can be cross-examined by the prosecution as a hostile witness.

Mr. Speaker: That is exactly my impression.

Shri Raghavachari: It is permissible based on other prior statements, but not on section 162 statements. The section 162 statements can now be used only by the accused to contradict the prosecution witness; the prosecution is prohibited from using them for contradiction purposes.

Mr. Speaker: So, I shall consider this. Let us keep over the discussion and the voting. I think I shall be able to decide it tomorrow, and in case I am not, day after tomorrow. In the meanwhile, we will proceed with the further discussion of the Bill, in respect of other clauses.

Shri Raghavachari: There is one other point. Yesterday, there was an amendment given notice of by Shri Pataskar, namely amendment No. 537, on the floor of the House; that was not given notice of before. And it was meant to be considered by Government favourably, in the course of the discussion here.

Shri Gadgil (Poona Central): That also has been held over.

Shri Raghavachari: Then, we asked for permission to make amendments to that amendment. We have now given those amendments also. I suppose they will also go in with section 162.

Mr. Speaker: All amendments to amendment received till now will be taken into consideration, but no further amendments now on that, nor any further amendments in respect of the clauses that are already discussed. Simply because it has not gone to voting, it does not mean that amendments and further discussion are open now.

Shri Raghavachari: No

Mr. Speaker: Otherwise, it will be an endless thing.

Shri Raghavachari: Yes.

Shri Sadhan Gupta: May I explain?

Mr. Speaker: There is nothing now to be explained. The House will now proceed with further consideration of clauses 25, 97 and 114.

Shri Sadhan Gupta: May I know when Mr. Pataskar's amendment and other amendments will be considered?

Mr. Speaker: After my ruling. If I rule that they are admissible, discussion may be possible. If I rule that they are not, then it is not open.

Shri Gadgil: What about the 45 minutes that we spent over this? Will we get an additional 45 minutes? The group of clauses that is under discussion is realy important, namely, defamation. So does it mean that 45 minutes are taken out of this?

Mr. Speaker: No, no. From now.

Shri Sadhan Gupta: May I point out that Mr. Pataskar's amendment has got nothing to do with your ruling, because it is admissible in the sense that it only proposes an amendment to the clause itself of the Bill. The only question here is when the debate on that amendment will take place. Is it your decision that it will take place after you have ruled on the other sections?

Mr. Speaker: The discussion, if at all permitted, will be limited only to the amendments to that amendment. That is all; nothing further. Of course, that amendment will be in order after I rule on the other amendments.

So we may start with clauses 25, 97 and 114.

श्री यू० एस० दुबे (जिला बस्ती—उत्तर) : जैसा कि कल मैं निवेदन कर रहा था, इस सदन को मौजूदा स्थिति पर विचार करना है.......

[MR. DEPUTY SPEAKER *in the Chair*]

Mr. Deputy-Speaker: What has the hon. Minister to say in respect of the amendment that was suggested and that was being considered by the Minister, in which case to a large extent the discussion may be cut short on the clause relating to defamation? If the prosecution makes the person who is defamed a necessary witness, so that to that extent the objection may be removed.

The Deputy Minister of Home Affairs (Shri Datar): We are going to accept that amendment.

Mr. Deputy-Speaker: Now, two points have been raised. First, the prosecution or the person who is defamed, without putting himself to any expense, will have the case conducted by the Government. Even in the first place, Government will advance money. The second point is that this is a method of the person who is defamed avoiding the witness box, so that he cannot be cross-examined if the public prosecutor files a complaint. So far as the second point is concerned, Government are willing to meet that position by making that witness who is defamed come before the court as a necessary witness. So far as the money portion is concerned, the person who is defamed, if he is a government servant, is entitled to reimburse himself, and therefore, it does not matter if he is given money in advance. I think both these points are met on this position......

Shri S. S. More (Sholapur): That is not the content of the amendment.

Shri Datar: So far as this amendment is concerned, it mentions two points. One is that this person shall have to go into the witness box, unless for reasons to be recorded in writing the Sessions Judge otherwise directs. Secondly, action similar to section 250 can be taken when, for example, it is found that the complaint was justified and that his action is filing the complaint itself was wrong, *i.e.* the accused was correct and the complaint was wrong. Then compensation can be given corresponding to section 250.

Pandit Thakur Das Bhargava: The third point is about the procedure. There is an amendment about procedure also. Is it accepted by Government?

Shri Raghavachari: The words 'for reasons to be recorded in writing' are not in the amendment. Will they be added?

Shri Datar: That is what is proposed. It has been said that this amendment should be accepted subject to putting in this additional expression 'for reasons to be recorded in writing'. Now such a person—the person defamed—will have to go into the witness box, unless the Sessions Judge otherwise directs for reasons to be recorded in writing.

Pandit Thakur Das Bhargava: I wanted to know whether Shri Venkataraman's amendment in regard to procedure also was accepted by Government.

Shri Venkataraman (Tanjore): You will be pleased to see that amendment No. 538 makes it clear that the Government must sanction and not the superior officer. Then amendment No. 539 states that the procedure to be followed would be the warrant procedure as it obtains now on a private complaint in the new warrant procedure suggested in the Bill.

Mr. Deputy-Speaker: The case has to go before the Sessions Court (*Interruption*). Even before the Sessions

[Mr. Deputy-Speaker]

Judge, preliminary inquiry can be started on the lines of section 202.

Shri Venkataraman: Not section 202, but section 251.

Mr. Deputy-Speaker: I agree...

Shri Venkataraman: There will be a preliminary enquiry in which witnesses of the prosecution will be heard and a charge will be made and the present warrant procedure will apply to these cases in the Sessions Court.

Pandit Thakur Das Bhargava: One thing may be cleared, as I fail to understand it. Under the amended Bill, as it has now emerged from the Select Committee, the procedure for warrant cases is quite different from the previous procedure in regard to warrant cases which is now contained in the Criminal Procedure Code. There is a double right of cross-examination under the old Act. Under the present amended Bill, that right has been restricted and there are many other modifications. I want to know if they want to keep the old procedure for this particular thing or they want to have the new procecdure.

Shri S. S. More: Old.

Shri N. S. Jain (Bijnor Distt.—South): Old procedure.

Shri Venkataraman: May I just explain? Clause 29 deals with the new procedure in case proceedings are instituted on a police report. The procedure to which Pandit Thakur Das Bhargava has been referring relates only to those cases instituted on a police report, but they will be treated as if they were cases instituted on a private complaint and in that case, the ordinary warrant procedure, as it obtains will prevail.

Pandit Thakur Das Bhargava: Another difficulty arises in regard to that clause which deals with private complaints. In regard to warrant cases, the procedure, according to the amending Bill, is the one which is contained in the old Criminal Procedure Code. Now, that clause has not been passed and we have given many amendments to that, because we do not want that the procedure in regard to private complaint should be very much different from what obtains under warrant cases. Warrant cases on police report will be more serious, whereas other cases will be fewer and simpler. Therefore, we want that so far as that procedure is concerned, that clause may be amended and we want to suggest another procedure. We have already given amendments. I would ask the House to consider whether we are right now in amending that procedure; unless and until the procedure is settled by this House, how can we decide about what the procedure in regard to these cases will be? We should adjourn the consideration of this clause so that we know exactly......

Mr. Deputy-Speaker: Consideration of the whole Bill may be adjourned!

Pandit Thakur Das Bhargava: That is much better.

Mr. Deputy-Speaker: I agree; but, if there is a possibility of getting on with it let us explore that possibility, unless it becomes impossible to carry on. My suggestion is this. Let us take the words "Warrant procedure". In whichever way warrant procedure is modified it will apply to all these. Hon. Member does not want to make a difference between the warrant procedure adopted in a cognizable case—case started on a police report—and the one which is adopted in a private case. Hon. Member wants that the accused in a private case ought not to be at a greater or lesser advantage than the accused in a case started on a police complaint. Either the one should be in relation to the other or both of them should be brought together. The same thing will apply to the procedure. Whatever warrant procedure is applied or used in relation to those cases before a Sessions Court; whatever questions apply to warrant procedure there according to the amendments as later on may be accepted or rejected by the House, will apply in all cases.

Pandit Thakur Das Bhargava: The difficulty is, when we are considering whether we should have a Sessions Court or a Magistrate's Court—so far as the procedure and the rights of the accused are concerned they are different—if we do not know what will be the exact procedure, it will not be possible for us to apply our mind and give a decision whether we should accept this section or not. How can we suppose that such will be the procedure in respect of this section?

Mr. Deputy-Speaker: The warrant procedure will make it all uniform.

Pandit Thakur Das Bhargava: In the amended Act it is entirely different.

Mr. Deputy-Speaker: I agree that the hon. Member wants to bring about uniformity.

Pandit Thakur Das Bhargava: I do want that.

Mr. Deputy-Speaker: If it becomes uniform it will apply to all cases. This procedure will apply to any case as in the case started on a private complaint. There does not seem to be any difficulty. Let us proceed now. So far as these matters are concerned, I leave it to the ultimate decision of the House.

Shri S. S. More: May I take one minute, Sir? Supposing this amendment is passed, it means that we do accept in principle that there shall be two procedures.

Mr. Deputy-Speaker: What are they?

Shri S. S. More: One for a case started on a police report and the other for a case started on a private complaint. This principle once accepted by accepting this amendment will debar us from discussing the procedure.

Mr. Deputy-Speaker: No doubt the Bill makes a difference between a private complaint case and a case started on a police report. That matter is held over. The amendments are there and these will share the fate of those amendments that have been tabled to the other one. If a warrant case is defined there and uniformity is brought about, then in a case started on a police complaint and in a private complaint case, the same procedure will apply.

Pandit Thakur Das Bhargava: I have given notice of another amendment that the procedure in regard to this Sessions case should be like other Sessions cases. But, the difficulty is unless we know what will be the exact procedure, how can we come to a right understanding of the question?

Mr. Deputy-Speaker: That matter will be placed before the House for its decision, whether this procedure adopted with respect to the defamation case by the Sessions Court must be the same procedure that is adopted in other cases, or a special procedure is sought to be devised now. Then, the other point is whether, a new procedure is sought to be devised now with respect to warrant cases and later on whether that procedure should be common or the same for cases started both on a police complaint and a private complaint. These are three distinct subjects though they are inter-related. I shall deal with these matters. The first point is whether the Sessions Court should conduct this case and if so the procedure similar in other cases should be followed or not. If that is accepted warrant case is ruled out. If they say warrant procedure shall be accepted then this will be got by the definition or procedure the House is going to adopt with respect to warrant cases.

Shri S. S. More: My difficulty is this. Each amendment comes as a by-product. So far as the real procedure is concerned it will be concentrated upon when we come to the relevant procedure. Now, a sudden decision of the House on a comparatively minor matter here will block our discussion on the major issues when we come to them; that is my difficulty.

Mr. Deputy-Speaker: On the definite understanding that nothing will inter-

[Mr. Deputy-Speaker]

fere with the discussion of the House or its decision, the procedure to be adopted in warrant cases initiated on a police report and those initiated on a private complaint; whether that should be uniform whether no modification should be made with respect to cases initiated on a police report, or even with respect to private complaint cases the restrictions imposed now not allowing a second cross-examination should be there, whether the same procedure should be adopted even with respect to private complaint cases; all these matters will be thrashed out. Even if the words "Warrant cases" are accepted for these cases, this warrant procedure will be governed by the procedure the House is going to adopt in considering what ought to be the warrant procedure. With all these in the background, hon. Members may cut short their speeches.

Shri Datar: I would point out one more thing, which the Government has accepted. We have accepted amendment number 538 according to which in all cases where complaints are to be filed by the Public Prosecutor, Government's permission is necessary and not of the officer or authority competent to remove the accused from office. In other words we propose to change these words "Officer or authority competent to him from office" and substitute the word "Government".

Shri Tek Chand (Ambala—Simla): State Government or Union Government?

Shri Datar: State Government or Central Government as the case may be.

Mr. Deputy-Speaker: Very well; now the hon. Member Shri U. S. Dube may resume his speech.

श्री यू० एस० दूबे : मैं निवेदन यह कर रहा था कि कल मैं ने यह कहा था कि.....

उपाध्यक्ष महोदय : क्या और कहने की जरूरत रही है ?

श्री यू० एस० दूबे : यह सदन और सरकार दोनों यह चाहते हैं कि जो भ्रष्टाचार चल रहा है और उस भ्रष्टाचार पर जो बेलगाम क्रिटीसिज्म चल रहे हैं इन दोनों को किसी न किसी भांति रोकना है। तो इस रोकने में हमने देखा है कि पिछले सात सालों में जब से हमें आजादी प्राप्त हुई है, एक भी मिनिस्टर, एक भी सरकारी अफसर, जिसके खिलाफ यह बातें कही गयीं, अपने आपको सही साबित करने और अपने ऊपर लगाये गये इल्जाम से बरियत पाने के लिए अदालत के सामने नहीं गया। हो सकता है कि कुछ सरकार के बड़े अधिकारी कामों में ज्यादा लगे रहे हों, या वह अदालतों के सामने जाने में अपनी तौहीन समझते रहे हों। पर छोटे अधिकारी जो थोड़ी सी तनखाह पाते हैं, जिनको दुनिया के बहुत से झंझट लगे रहते हैं, वह कहां गवाह खोजने जायें और कैसे अपनी छोटी तनखाह में मुकद्मा लड़ने जायें और उसका खर्चा बरदाश्त करें। उन्होंने भी यही समझा कि जहां ठाकुर को पटका जाता है वहां पुजारियों की गिनती क्या है। उन्होंने भी वही रास्ता अख्तियार किया कि चुपके से सर नवा कर जो कुछ उनके खिलाफ कहा जाये उसको बरदाश्त करते रहें। अब इसमें यह पता नहीं हो सकता कि कौन से सरकारी अफसर भले हैं और कौन से सरकारी अफसर ऐसे हैं कि जिनके खिलाफ ये इल्जाम सही तरीके से लगाये गये हैं। बदकिस्मती से हमारी सरकार ने यह कोशिश नहीं की कि पिछले सात सालों के भीतर गलत काम करने वालों की, भ्रष्टाचार के ढंग से रहने वालों की अलग बस्ती बसायी जाये। यानी उन पर इल्जाम रखा जाये और उसके लिए रास्ता निकाला जाय। मैं सरकार को बधाई देता हूं कि उसने यह पहला कदम उठाया है जिससे हम उस आदमी को जिसके खिलाफ कोई इल्जाम लगाया जाता है मजबूर कर देंगे कि वह अदालत के सामने जाये और वह अदालत के सामने अपने आपको सही साबित करे, नहीं तो अपने आपको नौकरी से अलग करे। इस तरह पर उस को मजबूर करने का यह एक ढंग है। अब हम और आप देखें कि जो हमारे सरकारी अफसरान और मिनिस्टरान सही तरीके

से काम करते हैं, स्टेट का धर्म है, स्टेट की जिम्मेदारी है कि वह उन की पूरी पूरी रक्षा करे और उन अच्छे लोगों को भी उन बुरे लोगों की कैटेगरी (श्रेणी) में शामिल कर के उन्हें भी एक ही कूंची से रंगने का मौका लोगों को मिले और इस तरह शासन के प्रति देश के वातावरण में एक गन्दगी बराबर कायम रहे, इस को दूर करने का यह एक कदम जो सरकार की तरफ से उठाया गया है, मैं समझता हूं कि हम सभी को उस पर विचार कर के सरकार को पूरा पूरा योग देना चाहिये। अब हमें यह देखना है कि इस कसौटी पर जो प्राविजन सामने रक्खा गया है वह पूरा पूरा उतरता है या नहीं। इस नुक्ते नजर से मैं सदन के सभी सदस्यों से इस पर विचार करने को कहूंगा। इस के वास्ते हमें कोई सब्स्टैन्टिव ला बनाने की जरूरत नहीं है। मुल्क में सब्स्टैन्टिव ला इतना काफी है कि जो कुछ भी गड़बड़ी देश में की जा सकती है उस सारी गड़बड़ी को दूर करके लोगों को सजा दी जा सकती है अब उन का विधान क्या हो, और किस तरह से उन को अमल में लाया जाये, यही एक प्रश्न है।

1 P.M.

एक एतराज जो इस कानून के खिलाफ यह है कि, साहब, इस में एक डिस्टिंक्शन किया जा रहा है, एक क्लास बनाया जा रहा है जिस को इस कानून के मातहत प्रोटेक्शन दिया जा रहा है और यह चीज "ईक्वैलिटी आफ स्टेटस इन दि कान्स्टिट्यूशन" के खिलाफ है। मेरी गुजारिश यह है कि यह बात ऐसी नहीं है। आप इस पर विचार करें कि आप इस सुझाव से, जो नया मसविदा आप बना रहे हैं, या कानून में जो परिवर्तन आप ला रहे हैं उस में किसी तरह का कोई विशेष अधिकार न आप किसी को देते हैं और न कोई विशेष फर्क आप कान्स्टिट्यूशन के मुताबिक दिये हुए अधिकार में डाल रहे हैं। क्यों ? मैं आप से कहता हूं कि आप उन लोगों को थोड़ी सी सुविधा प्रोसीजर में दे रहे हैं, और इस प्रकार की सुविधायें, मैं आप से अर्ज करूंगा, आप और हम सब लेते हैं। मैं आप से पूछता हूं कि हिन्दुस्तान के भीतर हम ३६ करोड़ आदमियों के रिप्रेजेन्टेटिव इस धारा सभा में हैं, करोड़ों आदमियों को जब इस मुल्क में झोंपड़ी भी नसीब नहीं है, तो हम को ४०० रुपये महीना लेने का क्या अख्तियार है ? हम को बंगलों में रहने का क्या अख्तियार है ?

Mr. Deputy-Speaker: The hon. Member is making a speech as if on the consideration motion and not on the clause. How are all these observations relevant now?

श्री यू० एस० दुबे : मैं यह अर्ज कर रहा था कि हम एक सुविधा उन को दे रहे हैं। आर्डिनरी सिटिजन को यह राइट होता है कि उसे अदालत में जा कर दावा करना पड़ता है। हम बजाय उसके जा कर अदालत में दावा करने के सरकार की तरफ से एक मौका उस को देना चाहते हैं। जहां तक राजप्रमुख, प्रेसिडेन्ट, वाइस प्रेसिडेन्ट या मिनिस्टर का ताल्लुक है, वहां तक सेक्रेटरी टू गवर्नमेन्ट उन की रजामन्दी से अदालत में दाखिल करेगा। लेकिन जहां तक दूसरे छोटे अहलकारों का सम्बन्ध है वहां तक सेन्टर के अहलकारों के लिये सेन्ट्रल गवर्नमेन्ट की इजाजत से और स्टेट के अहलकारों के लिये स्टेट की इजाजत से कम्प्लेण्ट फाइल हो सकता है और फाइल होने के बाद उन को यह सुविधा है कि उन को अदालत में नहीं जाना है। मगर इस सुविधा के साथ एक बड़ी भारी चीज और लगी हुई है, और वह यह कि अगर किसी मिनिस्टर के या सरकारी अफसर के खिलाफ कोई इल्जाम लगाया गया और इल्जाम लगने के बाद छः महीने तक वह मिनिस्टर या सरकारी अफसर चुप चाप बैठा रहे, तो इस का मतलब यह होगा कि उस ने उस इल्जाम को कबूल कर लिया। मेरे दोस्त पीछे से कहते हैं कि यह नहीं लिखा हुआ है। मैं कहता हूं कि कानून में यह चीज इम्पलाइड है कि अगर आप से यह कहा गया कि आप छः महीने के भीतर दावा कीजिये और आप वह दावा नहीं करते हैं तो इस का मतलब है कि आप ने अपना जुर्म कबूल कर लिया। इल्जाम अखबारों में निकलते हैं, और तरह से भी लगाये जाते हैं अगर उन इल्जामों के खिलाफ आप छः महीने तक कुछ नहीं करते हैं और

[श्री यू० एस० दुबे]

सरकार जिस के पास सब चीजें पहुंच जाती हैं उस के पास जब इल्जाम आये तो वह भी छः महीने के बाद तक चुप बैठी रहती है तो हम को और आप को पूरा मौका मिलता है उन से इस का जवाब पूछें। उन के पास इस का कोई जवाब नहीं रहता है कि कानून की इजाजत रहते हुए भी वह क्यों चुप बैठे रहें। आज तो आप कह सकते हैं कि अगर किसी इन्डिविजुअल ने दावा नहीं किया तो यह उस की तबियत है कि वह करे या न करे, लेकिन गवर्नमेन्ट के बारे में आप इस चीज को नहीं कह सकते। अगर गवर्नमेन्ट के किसी अधिकारी के खिलाफ कोई आवाज उठाई जाये, उस के किसी अधिकारी का डिफेमेशन हो तो वह चुप नहीं बैठ सकती। अगर वह ऐसा करती है तो उस को एक दिन भी मुंह दिखाने का मौका नहीं मिलेगा।

श्री बी० एन० मिश्र (बिलासपुर-दुर्ग-रायपुर) : आज तो गवर्नमेन्ट पर भी इल्जाम लगाया जाता है, लेकिन अगर वह चुप-चाप बैठी रहती है तो क्या इस का यह मतलब है कि उस ने इस बात को कबूल कर लिया ?

श्री यू० एस० दुबे : मैं यह कहना चाहता हूं कि आज इस तरह का कोई प्राविजन नहीं है कि जिस पर इल्जाम लगाया जाये। वह एक प्राइवेट कम्प्लेनेन्ट की तरह से अदालत में जरूर जाये। उस को मजबूर करने का कोई तरीका नहीं है, लेकिन आज यह किया जा रहा है।

..**Pandit Thakur Das Bhargava:** Why not make it explicit?

इस में एक प्राविजन कर दिया जाये कि इस तरह का इल्जाम लगाये जाने पर कोई आदमी अगर छः महीने तक दावा न करे तो उस को नौकरी से निकाल दिया जाये।

श्री आर० डी० मिश्र : अस्तीफा दे कर चला जाये।

श्री यू० एस० दुबे : मैं अर्ज करता हूं कि इस कानून के पास करने में यह इम्प्लाइड है कि अगर किसी डिफ़ैमेटरी इल्जाम के लगने के बाद गवर्नमेन्ट चुप चाप बैठी रहे तो वह अपने उस अहलकार के खिलाफ उस इल्जाम को कबूल करती है, और छः महीने बीत जाने के बाद उस अधिकारी को नौकरी में रहने का कोई अख्तियार हासिल नहीं होगा।

Shri Tek Chand: Can there be a substantive law by implication?

Shri U. S. Dube: That will be for this House to decide.

Shri Tek Chand: This is the doctrine propounded by the hon. Member.

Shri S. S. More: Can you not propound a new doctrine?

श्री यू० एस० दुबे : इस सिलसिले में मैं यह निवेदन करना चाहता हूं कि पुलिस इन्क्वायरी में जो सेफगार्ड होते हैं और उसको जो सिक्यूरिटी होती है वह इसको हासिल नहीं है। उस तरह की कोई सहूलियत इसको हासिल नहीं है। जिस तरह से एक प्राइवेट कम्पलेनेंट जाता है और उसको जो रास्ता चलना पड़ता है उसी रास्ते से यह प्रोसीज्योर जायेगा सिवा इसके कि कम्पलेनेंट को हाजिरी नहीं देनी पड़ेगी। लेकिन कम्पलेनेंट का बयान होना लाजिम है। अब कम्पलेनेंट के विटनेस बाक्स में जाने और उसके जिरह के सारे सवालों के सामने खड़े होने की जो बात इसमें आती है उसको देखते हुए किसी तरह यह नहीं कहा जा सकता कि इसमें सरकारी अफसर को किसी तरह बचाने की कोशिश हो रही है। अगर यह साबित हो कि जो कम्पलेंट दायर की गयी है वह सही नहीं है तो एक हजार रुपया तक उसे हर्जाना देना होगा। इस मामले में भी किसी तरह की इसे प्राइवेट मामले के मुकाबले में सहूलियत हासिल नहीं है। तो मैं यह गुजारिश करूंगा कि आज जब ऐसा वातावरण पैदा हो गया है, क्या यह मुनासिब होगा अगर हम चुपचाप बैठे रहें और जिस तरह से चल रहा है चलने दें, लोगों को एक तरफ बलगाम चाहे कुछ कहने का हक दे दें और सरकारी अफसरों को चुपचाप बैठने का सुभीता दे दें, और इस हालत को हम बेबसी के साथ देखते रहे। अगर ऐसा हो तो मैं गुजारिश

करूंगा कि यह पोजीशन कोई अच्छी पोजीशन न होगी । इसलिए हमें इस मेजर का स्वागत करना चाहिए जिसे सरकार ने उठाया है । अगर आगे चलकर हमें किसी और सहूलियत की जरूरत महसूस हुई तो मुझे उम्मीद है कि गवर्नमेंट पीछे नहीं रहेगी और उन बातों को सामने लायेगी और कानून को मजीद तौर पर बदलने के लिए तैयार रहेगी । यह मुझे उम्मीद है कि हाउस इस को मानेगा और इस सुझाव के मुताबिक चलेगा ।

Shri N. C. Chatterjee: This Parliament no doubt has got plenary legislative power but certainly it owes to its own reputation and to the trust which has been reposed on its Members to see that in the Republic of India nothing is done to cripple democracy and to put our infant democracy in peril. I would ask seriously the hon. Minister and the House to consider whether, by passing a law today, making defamation of a Minister a peculiar kind of offence to be tried by a special procedure and giving it special safeguards, we are not violating article 14 which guarantees freedom of equality. It is a fundamental postulate of that equality guaranteed by our Constitution that there should be no difference between citizen and citizen in the eye of law, based on caste, creed, religion or financial resources or political power. Now, defamation throughout the world is accepted really as an individual wrong, civil tort, and only in exceptional cases it is looked upon as a crime. What does the hon. Minister ask this Parliament to pass? If any one defames a citizen of this country, however eminent he may be, however conspicuous the position he may occupy, he must go to the ordinary law, file a complaint and go through the entire legal process, but if the person defamed or attacked belongs to a privileged class,—Minister or public servant— then, he need not go as a private complainant, and the machinery of the State will be set in operation and the State will prosecute, and the resources of the State will be placed at the disposal of the defamed complainant. If Shri Frank Anthony or my friend Shri A. K. Gopalan defames Dr. Katju or Shri Datar, then the Minister can ask the Public Prosecutor or the Advocate-General of the State to prosecute, but if the Minister in his turn defames Shri Frank Anthony or Shri A. K. Gopalan, then, they will have to go to a court of law in the ordinary way and clear up their character and vindicate their honour and reputation. Why this discrimination? That is the question. Is this discrimination not really an infringement of equality? Is this discrimination permissible? Can this discriminatory procedure be not resorted to for ulterior purposes? Is it meant to cripple opposition? Is it meant really, to some extent, cripple the freedom of the Press? Will it make the position of the Press which is the best ally in the exposure of crime and other black spots in public life, easier, or will it make it more difficult? Apart from the technical questions of constitutionality or repugnance to the Constitution. It is regrettable that there is today a feeling that the hon. Home Minister is trying to tell the public and this House that a charge of corruption or inefficiency or defamation against a public servant or against a Minister is really some kind of treason or disloyalty against the state. Really that approach is wrong. It is wrong to equate the Minister or a public servant with the State. That is the fundamental approach which is wrong and which is amiss.

I want to pose a few questions for the consideration of the hon. Home Minister, and these questions are very important, and in all seriousness and in all humility, I shall ask him to consider the same and to give us clear and categorical answers to clarify the position, and that will to some extent clear the misunderstanding which has been created by this Bill. The rudest shock was given by one provision in Dr. Katju's Bill when he made it a

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cognizable offence. There is a chorus of disapproval throughout India and I am very happy that the Gadgil Committee has put its foot down on that particular provision. They have said in their report:

> "The Committee have taken into consideration the recommendations of the Press Commission."

Now, the other day, the hon. Home Minister was saying that the Press Commission was really his bible and that its report was a sheet-anchor. I am reading section 1157 of the Press Commission's report. That paragraph is headed, "Defamation of public servants". It says:

> "In our view, there is no case for discrimination in favour of public servants in this matter. The State Government have exaggerated the extent of defamation of public servants which is prevalent and the difficulty of public servants taking action for defamation."

Shri M. D. Joshi (Ratnagiri—South): May I bring it to the notice of the hon. Member that it is the minority report that he is reading and not the majority report?

Shri N. C. Chatterjee: Would you kindly see page 452?

Shri M. D. Joshi: I have seen. Paragraph 1157 refers to the minority report and not to the majority report. The hon. Member may go through it again.

Mr. Deputy-Speaker: Anyhow, it is in the report.

Shri N. C. Chatterjee: If this is the minority report, then, you will remember that four members of the Commission were parties to that. Those four Members were: Acharya Narendra Deva, Shri A. D. Mani who was the President of the All-India Newspaper Editors' Conference, Shri M. Chalapathi Rao, the President of the Federation of Working Journalists, and Shri Jaipal Singh.

Shri Gadgil: They were under a mandate.

Shri N. C. Chatterjee: I do not think that Acharya Narendra Deva was under a mandate.

Shri Gadgil: I am not talking of Acharya Narendra Deva. I am talking of Shri Mani and Shri Rao.

Shri N. C. Chatterjee: I do not think Shri Jaipal Singh was under a mandate

Mr. Deputy-Speaker: What was the total strength of the Commission?

Shri N. C. Chatterjee: Eleven.

I think four or five of them;—I am not quite sure; I think it is at least four of them have given this minority report. I maintain that this statement is correct that the State Governments have to a large extent exaggerated the extent of defamation of public servants and also the difficulty of public servants taking action for defamation. Then, they say the conditions are fairly well balanced. While it may be true that some newspapers have enlarged their liberty into licence, public servants in this country are yet free from the amount of criticism which is due in democratic conditions. Neither factor should be exaggerated. I maintain quite correctly that public servants are not entitled to any discrimination in their favour. What is the good if Member after Member from different sides—from the Congress and the Opposition benches—stands up and says that there is a good deal of corruption, jobbery and nepotism and only very few cases are brought to light? One hon. Member said that with the greatest difficulty, he could expose only very few cases although he knew hundreds of such cases. If that is the position, we should welcome the exposure of these black spots and not take any steps to shield the guilty in any manner.

My question to the Government is this: is it the intention of the Government to provide special immunity and special procedure to Ministers and public servants when imputations of corruption. jobbery or nepotism are made against them? Is it not their real intention to facilitate and welcome the exposure of corruption in the public administration in the country? The real object should be made clear because there is such a feeling here. The Bill is suspected; Government's *bona fides* are challenged because they are roping in the Ministers and are giving them certain immunities. Therefore. the first thing the hon. Minister should make clear is: what is their intention or objective?

My second point is from the point of view of weeding out corruption. In public life or public administration. will not a special procedure for Ministers and other public servants deter people from coming forward with charges against Ministers or high officials. If a poor editor has not some reliable report from some reliable source that a Minister or a public servant is guilty of corruption or jobbery or nepotism, he will have to think thirty times before he prints it or before he puts in writing although he knows it is his right and duty to expose it. He knows that toworrow the Public Prosecutor or the State will come down upon him and the State machinery will be set in motion.

The third question that I want to ask him is this. Is the object really to encourage the exposure of black spots in public life and public administration? What guarantee will the hon. Minister give? Will he give any guarantee that in case a Minister or public servant is charged with bribery or jobbery or nepotism, he, as the *de facto* complainant must be compelled to face the music in a Court of law and vindicate his character before a tribunal. You are merely legislating that if there is any case to be started. he need not go to the Court of law as the Public Prosecutor will be the complainant after taking the sanction of the Government. That will not do. That will be a mere eye-wash or window-dressing for the purpose of sheilding the guilty and helping people who do not wish to come forward and vindicate them. Will the Minister make the position perfectly clear that, if there is a charge of dishonesty or corruption and special charges are levelled. he will compel the man to go to a Court of law. The Public Prosecutor will be the nominal complainant but he will be the *de facto* complainant. Will he give an assurance to this Parliament and to the country at large that he stands for this and that he wants to expose people who have soiled their hands with public money or illegal gratification? That will compel them to resort to this procedure and vindicate their honour in a Court of law.

My fourth point is this. Will the Government give an assurance that, if a Minister or a Government servant is charged with any allegations of jobbery or corruption he will be compelled to take action against the accused and will he assure the commencement of prosecution within a specified period of time? It is no good saying that the Sessions Judge will not entertain a complaint unless it is filed within six months. It is the duty of the Government to see to it. There is no question of shirking the responsibility. This is not a machinery or a cloack cloud the real issue. This machinery will be put into operation for the purpose of bringing into book those who have been defamed and charged with serious crimes. They must clear up their character and must face the music in a Court of law.

Fifthly. I want to know this. If a Minister or a public servant against whom any serious charge is levelled is not willing to clear up his character and to go to a Court of law. then will he be compelled to resign? In all fairness. the Government of India and the hon. Home Minister should give an assurance to the House that. if a public servant is defamed or if there is a charge that he has taken bribe o

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that he has been systematically abusing his position and authority and has been giving positions to people who are unworthy of it, then he must be asked to come forward and be prepared to come into the witness box. If he does not do so, he must go; he must quit. The *bona fides* of the Home Minister and the Government will be made perfectly clear if that assurance is given. There should be no difficulty in giving this assurance in un-equivocal language. He should face the music or clear out. If there is a Minister against whom a charge is made, then the Prime Minister or the Chief Minister must call upon him to face the music. That is not merely saying that he may be examined or shall be examined; it is not merely saying that the Sessions Judge can exempt him from appearing before a Court and dispense with his examination. That sort of trickery will not do. He must come forward. He is the real complainant although the State is the financier. By all standards of morality and jurisprudance he is the *de facto* complainant. Therefore, he must go to the witness box. A charge should be framed only after hearing his evidence and then only the trial should proceed.

Sixthly, in the event of a prosecution case collapsing what steps will the Government take to prosecute the offender or what action will they take? It will not do if you simply say that if the prosecution case collapses and if it is proved that the charge was *bona fide* and if the public servant or Minister was really dishonest the person proceeded against unfairly will be compensated up to the extent of Rs. 1,000. That is no solution. The real thing is that Government should make it clear that in such cases not only the person who has been proceeded against unfairly would be acquitted but that the other man shall be immediately proceeded with as in the case of perjury......

Shri A. M. Thomas (Ernakulam): Does not that automatically follow?

Shri N. C. Chatterjee: It is not a question of following. It ought to have been made clear in this Bill; it should be made clear by legislation. Even if he does not want to put down in the Bill, there is no difficulty if the Home Minister is of the same mind that it should automatically follow They should say that it would automatically follow. (*Interruptions*). The State must prosecute if it has got any sense of fairness or honesty and if it really stands for the purpose of weeding out corruption and not to shield the black spots but to bring them to the public, the State should take this duty upon itself; it should immediately start. You can put in a clause like that as in the perjury cases—that is, the Magistrate himself shall initiate the proceedings or the Sessions Judge will immediately order the prosecution of that man.

Lastly, I am asking in all humility, what is the compensation which this Government proposes to pay in case it is established that the charge of corruption or jobbery is correct, and that the person alleged to be defamed was really guilty? This ultimate total of Rs. 1,000 is absolutely improper. We all know that in a case of this description, it takes weeks and weeks if not months and months to come to a final conclusion. Would it be right to fix this sum of Rs. 1000 when the State is spending out of its resources Rs. 10,000, even paying the Public Prosecutor nominal fees, as you know, because he is a retained lawyer on behalf of the State. The poor accused has to engage a lawyer on a higher scale generally. Would it be fair to fix the maximum? Would you not leave it to the discretion of the Court? The Judge knows how exactly the thing has gone on.

No doubt, in a sense, the State is an interested party in vindicating the honour and reputation of public servants. But, if you scrutinise it properly, would it stand scrutiny? Is it not the same mind which was behind section 124-A, which said that imputation against any person meant imputation against the State and meant disloyalty or sedition and disaffection towards the State? That mind should no longer work in independent India. Be they Ministers, Prime Minister, Chief Minister or any Minister in a State, if anybody defames him, he does not defame the State. The State is not brought into disrepute. When they descended into the political arena, they should not be thin-skinned in any way. They should welcome all criticism. In view of the coming elections, this provision is particularly suspected. Nothing should be done in any way to strengthen that suspicion. Everything should be done to clear up that suspicion. That does not mean muzzling the Press; that does not mean gagging the opposition; that does not mean hiding the guilty; that does not mean in any way sheltering the inefficient and corrupt elements in the public service. When persons descend into the political arena and become Ministers, they must be prepared to face the rough and tumble of political life. They cannot be allowed a sheltered existence. Therefore, whatever be the merits of other provisions, in any event, the inclusion of Ministers as a privileged class has been looked upon as greatly reactionary and is thought to be a great machinery to arm the people now in power to trifle the opposition and prepare for the next elections. I respectfully submit and strongly urge on the Government to make their position clear. Shri Venkataraman's amendments, in one or two points, have gone much beyond what the original proposal was. To that extent it is a step forward. But, I think that it should be made perfectly clear.

We do not at all accept that there has been a good deal of unnecessary, unfair, unjust criticism. There is a certain section of yellow Press, certain dirty rats. I am convinced that the Press on the whole, in India has behaved well. I am also convinced that the Press, as compared to the Press in other countries, in the democratic life of India, has not behaved at all improperly. On the other hand, it has maintained some standard. It has shown a certain attitude of rectitude and probity. I am also convinced and a majority in this House are convinced that there is a conscious effort on the part of the Press organisation to build up traditions, to weed out the yellow press and to formulate a standard and discipline so as to make ineffective any lapse from high journalistic conduct. In that direction, we shall all welcome any effort. It will be much better not to fetter the Press by Press laws or by artificial gagging sections which will arrest in any way the conscious and spontaneous effort for self-improvement. That is a much more effective way and that would ensure to the lasting benefit of the country. We all want that yellow Journalism should go out. We all know that there is a certain amount of scurrilous Press. That is not confined to India. It is there in every country, and you will find that it is not an exception here. I do not think that the degree to which it has gone is so great that anything like a Press Act or any gagging machinery should in any way be invoked. I think that the hon. Home Minister should make it perfectly clear first and foremost —it is only then that Parliament can possibly consider this—that it is not the desire on the part of the Government to do anything for the purpose of shielding the corrupt people either in the Government in the State or at the Centre or any public service. He should come forward with alacrity and give every assurance possible to this Parliament that this particular clause will not be operated to the detriment of honest journalism or honest criticism or honest attempt to focus attention on the black spots, but that it will be used firmly for the purpose of weeding out the corrupt as well as those guilty of jobbery, nepotism or corruption in any shape or form.

Shri Venkataraman: I shall first explain the purport of my amend-

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ments before dealing with one or two observations which have been made both by Shri N. C. Chatterjee and Shri Sadhan Gupta.

The amendments seek to improve the section as it stands in several ways. In the first place, as the clause in the Bill stands, prosecution in respect of defamation of a public servant can be ordered by his superior officer. In fact, what the language used in the section seems to show is that an officer or authority competent to remove him from office will be entitled to sanction the prosecution. This has been changed in my amendment by the words, by the Government concerned. That is to say, no prosecution can be launched in respect of a defamation of a public servant unless the Government sanctions the prosecution. There is a wholesome fear that if the power were vested with subordinate officers, they may sanction prosecution regardless of the gravity of the offence, or the needs of public justice. If a superior officer is inclined to launch a prosecution for the sake of harassing somebody, this section would help him and that is a legitimate ground for complaint. That is why this amendment has been introduced by which Government will be the only authority which will have the power to sanction prosecution in respect of subordinate officers.

The second amendment No. 539 deals with two aspects of the case. One is the procedure to be followed in respect of such a prosecution. As the clause in the Bill stands, it will be warrant procedure as defined in clause 29 of this Bill. We want to make it clear that the procedure to be followed will be the warrant procedure as it obtains in a private prosecution. In clause 29 of this Bill, two different systems of procedure are intended to be followed in respect of warrant procedure. In the case of prosecution started on the report of the police, a certain procedure is intended to be followed: copies of statements should be furnished, etc. etc. In the case of a private complaint, in clause (b) of section 207, it is provided,

> "in any other proceeding, follow the procedure specified in the other provisions of this Chapter."

If a private complaint has been filed before a Magistrate in a warrant case, the utmost protection is given in respect of these prosecutions. The complainant and the witnesses on his behalf would be examined. They would be cross-examined, then, charge framed, then they may be recalled for re-cross-examination and then defence let in. Therefore, I submit that no special procedure favourable to the prosecution has been given under this section.

My hon. friend Mr. Chatterjee said: you are putting them on a higher pedestal; you are giving them a favourable procedure. I beg to submit we are not. The procedure to be followed is the real warrant procedure as it exists under the Code. It may be that when my hon. friend Pandit Thakur Das Bhargava's amendment is accepted, the procedure may be changed, but as the law now stands, and as the clause now stands in the Bill, it is the intention that the procedure available under the warrant procedure will be applicable to the prosecution under this case.

Then the third aspect of this amendment is that in all cases in which prosecution under this clause is sanctioned, the person defamed will be a necessary witness, unless for reasons to be recorded the Court of Sessions otherwise directs. Sir, one of the complaints which the Press Commission made with regard to prosecution by the Government in respect of defamation of public servants is contained in the dissenting minute in respect of this matter. In paragraph 1159 of the Press Commission's report the dissenting minute states:

> "Whatever may be the limits necessary to cross-examination of complainants in defamation

cases in order to exclude irrelevant cross-examination, it is of the essence of taking cognisance of an offence that the complainant should be examined."

So, one of the major objections which the dissenting minute in the Press Commission's Report raised with regard to launching prosecutions in respect of defamation of public servants by the Government is that the person defamed may not be brought before the Court. It is a very legitimate objection. In fact, if the public servant has a guilty conscience, he may say that the prosecution is launched by the Government and may try to evade appearing before the Court as a witness in his own case. That is completely remedied in the amendment which I have placed before the House stating that in all those cases he will be a necessary witness on behalf of the prosecution. Sir, the little reservation which is made in favour of the Court of Session having the discretion in certain cases not to call the person defamed as a necessary witness is to provide for such extraordinary contingencies as when an Ambassador abroad is defamed *per se* in a newspaper or any public document. If we remove this restriction, restriction in favour of the court having the discretion either to summon or not to summon the person defamed, even a person employed by the Government of India abroad, people functioning as Ambassadors and High Commissioners, will necessarily have to come and face a trial in India which would be certainly not either in the interests of justice nor possible in the circumstances of the case. In those cases the Court is given the discretion. It is not the prosecution that is given the discretion. It is really the Court that is given the discretion to dispense with the evidence of the person defamed.

I therefore submit that these three amendments take away the bulk of the criticism which has been made both by Mr. Sadhan Gupta and Mr. Chatterjee.

Then, it was asked: if the Government prosecute a person for defamation of a public servant and fails in the prosecution what is the remedy? In respect of all criminal prosecutions which fail, remedy under section 250 of the Criminal Procedure Code is available. That is also sought to be made available by my amendment No. 540. That is, in all cases in which the Court is satisfied that the prosecution is false and frivolous, or vexatious, the Court has the authority and the power to award compensation not exceeding Rs 1,000. The point was raised by Mr. Chatterjee as to why the limit of Rs. 1,000 has been fixed. Government may have to spend a lot more and the accused may have to spend very much more to defend himself. Well, Sir. It it not the intention, I take it, of the legislature to provide for the whole compensation that would be due to him in respect of the proceedings. Further proceedings by way of civil suit and also criminal proceeding for malicious prosecution are wholly reserved. If you take section 250 of the Criminal Procedure Code you will find that inspite of compensation being allowed, the accused person who has been acquitted reserves all the right to file a civil suit for damages, as well as file a criminal prosecution for malicious prosecution. The same thing is carried out in the amendment proposed by me. In clause (c) it is said that all compensation awarded shall be recovered as if it were a fine. Then in (d) it is said that any person who has been directed to pay compensation shall not by reason of such order be exempted from any civil or criminal liability in respect of the complaint made under this section: provided that any amount paid by an accused person under this section shall be taken into account in awarding compensation to such a person in any subsequent civil suit relating to the same matter. Therefore, my submission is that what Mr. Chatterjee complained as inadequate compensa-

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tion has been provided for by the exemption granted under this section.

Let us forget this defamation and take it as any other offence. If there is a malicious prosecution, or if there is a baseless or frivolous prosecution, the Court awards damages or compensation. But that does not debar the person from claiming either in a subsequent civil proceeding or in a criminal proceeding, further damages or further penalties to be imposed on the person.

Shri N. S. Jain: May I put a question to the hon. Member? There can possibly to no civil or criminal proceution or complaint in regard to malicious prosecution, because the complainant would not be the person defamed. It will be the Government; unless you put in some proviso that he would be considered as the complainant, no civil or criminal action can be taken against Government or the person defamed.

Shri Venkataraman: My friend has raised a legal issue. Under section 250 of the Code of Criminal Procedure it is provided "in a case instituted on the complaint or upon information given." Now this may be treated as information given. We can envisage the way in which a criminal prosecution may be launched. Certain defamatory allegations may appear in a newspaper. Then the Government which thinks that it is a very serious matter will certainly ask the officer concerned whether those allegations are true and what he has got to say. On that, I expect that the officer would say, it is all totally false, and that this man should be prosecuted. That, I submit, is information laid, and a prosecution is started on the basis of such information.

Mr. Deputy-Speaker: These prosecutions are over the head of the complainant or the defamed person, as against the Bill. There are cases, decided cases, where on the information of the person aggrieved, police have taken action; so, he is really the complainant, though he does not figure as the complainant, in which case, he can be sued for malicious prosecution, and damages also could be recovered. But this is a case where the person defamed does not want to complain, but Government take up the complaint. How can you put him on the same category as the other man at whose initiative, the prosecution was launched, or the proceedings were started?

Shri Venkataraman: If the public servant does not want a prosecution to be launched, Government would straightway dismiss him, rather than continue him and not launch a prosecution.

Shri Tek Chand: Under which provision of law?

Shri Venkataraman: May I say this? This is intended to protect the purity of administration. An allegation is made on some public officer. Government sees that the allegation is of such a serious character that it must be cleared. Naturally, Government would ask the officer concerned, whether these allegations are true, and what he proposes to do about them. The officer concerned would say either they are false and that the persons concerned should be prosecuted, or he will say, I do not want any prosecution.

Shri V. P. Nayar (Chirayinkil): Where have you made it necessary?

Shri Venkataraman: If he says does not want any prosecution—I am taking the extreme case—then he confesses to the guilt, he admits the allegations contained in the paper, and the powers of Government are not so ineffective as not to take disciplinary action against the officer when he says that no prosecution should be launched. Though it is possible theoretically to imagine that an officer would not be willing to have prosecution, or would be against prosecution, he cannot in practical fact oppose a prosecution without himself confessing to the guilt, or admitting the facts alleged, or the defamatory statements.

How would it happen? Let us look at it in a practical way. If the officer concerned does not want a prosecution to be launched, it would be an admission of guilt; it would be a confession of his misdeeds, and therefore, there will be no question about prosecution. What is the purpose in this prosecution? It is not to harass the person who defames, but it is to protect the integrity of the services.

Shri V. P. Nayar: Certainly, no.

Shri Venkataraman: That is the purpose. Just concede me for a few minutes that it is so, in order to test the argument. If you refuse to think, then I cannot convince you.

Shri V. P. Nayar: It is not so.

Shri Venkataraman: Are our minds so blank and so closed that they cannot even imagine?

Mr. Deputy-Speaker: Can there not be hypothetical case?

Shri N. S. Jain: Let us believe the Home Minister.

Shri Venkatarman: Can we not reconcile ourselves even to some hypothetical propositions?

Mr. Deputy-Speaker: Not even hypothetical. It is alternative.

Shri Venkataraman: Really, it is that. There are two circumstances possible. One is that the defamed person would say that the allegation is false and that a prosecution should be launched, in which case I submit that he becomes the person who gives the information, and is liable to both civil and criminal proceedings under this section.

Mr. Deputy-Speaker: Why should not this be treated on the same line as the other case, namely when a person complains of theft in his House, and he does not disclose the name of the suspected person, still, the policeman of his own accord charges somebody, and if the man who is accused is acquitted, there is no charge for malicious prosecution? In other words, *bona fide*, the public officer who is responsible for public justice or public administration launches a prosecution, and if it fails, there is no question of malice. Likewise, here is a case where in the interests of justice, public administration, and purity of administration, Government, i.e., a high officer of Government itself, and not an ordinary police officer, comes to the conclusion that it is a fit case for prosecution. Why should this be made different from the other case where an ordinary sub-inspector of police is not liable for prosecution on the grounds of malice, if the prosecution that he had launched in public interest fails? Here is also a case where prosecution is launched in public interest. Why should the hon. Member who is now on his legs be apologetic with respect to this matter? Why should it not be made equal to the case where an ordinary sub-inspector who launches prosecution in the interests of public administration goes scot-free, when he has done his action *bona fide*. Similarly, here, unless it is *mala fide*, why should he be liable for malicious prosecution?

Shri Venkataraman: I am putting my case higher than what you have stated. My case is slightly higher than what you have stated, though what you have stated would be the ultimate position. I put my case higher, because in practice, it would be impossible to imagine a case in which a Government servant, when asked by Government to state whether the allegations in a particular paper or publication is true or false, would say, no, no, this man should not be prosecuted. It would not be ordinary human conduct. It would be a

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case in which he would have to say. it is false and he should be prosecuted; or he would have to confess the guilt, and confess his misdeeds. Therefore, that sort of thing is not likely to arise. My second proposition is that, even as you stated, there are cases in which a person merely complains of theft—it is not necessary that he gives information—and in those cases where there is no *mala fide*, where it is neither frivolous nor vexatious, no person would be liable to pay any damages.

Pandit Thakur Das Bhargava: May I enquire whether any Session's Judge would ever hold a complaint of this character to be frivolous, when it is sanctioned by the Secretary of the Cabinet, for instance, or by Government?

Shri Venkataraman: I think the independence of the judiciary is very high, and it is very good. Even if the Government, or the Chief Secretary or the greatest authority or the Cabinet Secretary sanctions prosecutions, it is possible—and I am quite sure the judiciary in India will certainly do that—that our judiciary may find that it is so, if it is so.

Pandit Thakur Das Bhargava: It can be proved false, but not frivolous.

Shri Venkataraman: I cannot understand really why we should think that the judiciary should not discharge its functions. We must always start with an argument......

Pandit Thakur Das Bhargava: It cannot be frivolous when Government have sanctioned it, when the entire Government have considered it, and the Council of Ministers has sanctioned it. It may be false; I can understand that.

Shri N. S. Jain: It may be untrue.

Mr. Deputy-Speaker: Why should not Government straightaway say that in public interest, they will launch the prosecution, and that they are not going to submit themselves to any suit for damages for malicious prosecution?

Shri Venkataraman: My answer is simple. If he is covered within the law in regard to the complaint or the information on which Government sanction the prosecution, if he comes within the four corners of the law, he would be liable both under civil process as well as under criminal process. It is not that every case which he files is a case of malicious prosecution.

Pandit Thakur Das Bhargava: In a civil case, there is no question of frivolity or any malicious prosecution. If the charge is false, to the knowledge of the person, then the man shall have to pay damages. There is no question of frivolity there or even vexation.

Shri Venkataraman: I am afraid my hon. friend Pandit Thakur Das Bhargava, eminent lawyer that he is, is confusing between proceedings in criminal cases, and civil damages, with compensation payable under section 250 as well as under this section.

So far as the cases for damages are concerned, the law is clear. The ground on which damages will be awarded is clear, and it will be awarded without reference to this amendment, or without reference to section 250 of the Criminal Procedure Code. So far as malicious prosecution is concerned, it would stand on its own merits, on the case that it is false and that it is malicious; it will not depend on the construction of this section or of section 250 of the Criminal Procedure Code. Actually, in this section, all that we are trying to do is to find out the grounds on which compensation can be given. I anticipate Pandit Thakur Das Bhargava's argument saying that it should not be frivolous or vexatious, the very moment, it is false, then the compensation should be payable. I am unable to agree for this reason that section 250 of the Criminal Procedure Code. which provides for payment of compensation, has stood the test of time, and has been in existence for quite a long time, and in so much as this is of the same nature as section 250 of the Criminal Procedure Code. the same language should be adopted.

Pandit Thakur Das Bhargava: Those cases are not sanctioned by Government.

Shri N. S. Jain: The words 'frivolous and vexatious' may be taken out.

Shri Venkatarman: Now, I will proceed to deal with certain general observations which my hon. friend Shri Sadhan Gupta had advanced.

He said that we were making a distinction between one citizen and another. You are well aware that in the interpretation of article 14 of the Constitution, classification of people is allowed. If a Minister who is defamed in respect of his private acts and deeds is given special protection by means of this procedure, and a private person is given a different procedure possibly it may amount to discrimination. But my friends will realise that it is only acts in the discharge of their public functions about which defamation occurs, that can be proceeded with under this clause. If there is a private accusation, if there is a reflection on his character as a person unconnected with the discharge of his duties, proceedings under clause 25 will not be open to him and will not be available.

Shri V. P. Nayar: How?

Shri Venkataraman: Kindly read clause 25 itself. It says:

> "Notwithstanding anything contained in this Code, when any offence falling under Chapter XXI of the Indian Penal Code is alleged to have been committed against the President....employed in connection with the affairs of the Union or of a State, in respect of his conduct in the discharge of his public functions..."

It is only in respect of defamation in connection with the discharge of his public functions that proceedings under the amended clause can be taken; otherwise, if it is in respect of his personal character or of any other matter, he will have to proceed under the ordinary law. Therefore, no discrimination is really intended; no discrimination exists in providing for this different procedure in respect of a public servant connected with his conduct as a public servant.

Then, Shri Sadhan Gupta said......

Acharya Kripalani (Bhagalpur *cum* Purnea): Bribery and corruption are connected with service or not?

Shri Venkataraman: Yes, in respect of the performance of his duties.

Acharya Kripalani: In the performance of his duties, he does that!

Mr. Deputy-Speaker: If he were not in the Government, who would give him money?

Shri Venkataraman: Yes.

Mr. Deputy-Speaker: It is a part of his service!

Shri N. C. Chatterjee: An integral part of his service! (*Interruptions*).

Shri Venkataraman: Therefore, there is no question of any privileged class. On the contrary, the clause is intended to maintain and preserve the purity of administration. It cannot be done as the law now stands. Any number of accusations, and defamatory statements appear in the Press about Ministers and high-placed government servants in the discharge of their duties. Not one of them ever goes to the court for the purpose of clearing his name.

Acharya Kripalani: Shall I correct him? Under the British regime, they did go.

Shri Gadgil: You still remember the procedure.

Acharya Kripalani: Then it was better. (*Interruptions*).

Pandit K. C. Sharma: (Meerut Distt.—South): Master has changed; law is the same.

Shri Venkataraman: My submission is that a government servant or a Minister cannot be compelled to clear his conduct. In the French law, a public servant is obliged to go and clear his name.

Shri Tek Chand: Which is the article?

Shri Venkataraman: Under the Government Servants Conduct Rules, he is prevented from refuting allegations which are made against him.

Pandit Thakur Das Bhargava: Change the rules.

Shri Venkataraman: There are various ways. It may be that when Pandit Thakur Das Bhargava becomes the Home Minister, he will think of changing the rules. But I think differently. After all, why should we not hear the advantage in doing this?

Shri V. P. Nayar: What will he do when he becomes the Home Minister?

Shri V. G. Deshpande (Guna): When he becomes Deputy Minister.

Shri Venkataraman: You will wait and see.

Shri N. C. Chatterjee: Long leave Asquith!

Shri Venkataraman: The object, as I said very clearly, is to see that the government servant or the public servant clears his reputation in respect of his conduct in the public affairs. The law, as it now stands, does not compel him to do so, and the only way in which he can be compelled to clear his reputation would be......

Pandit Thakur Das Bhargava: Why only way?

Shri Venkataraman: ...by a prosecution.

Acharya Kripalani: Why do they not clear their reputation? They know evidence will come and their reputation will be further spoiled.

Shri S. S. More: They have no reputation to be cleared.

Mr. Deputy-Speaker: The time alloted is till 3 O'clock.

Shri Tek Chand: There are others who have put in Minutes of Dissent and who have something to contribute.

Pandit Thakur Das Bhargava: Those who have not been able to give Minutes of Dissent also should be heard.

Shri Tek Chand: The time has extended to 4 O'clock.

Shri S. S. More: It will be up to 4 O'clock.

Mr. Deputy-Speaker: All right. When does the hon. Minister want to be called?

Dr. Katju: I am entirely in the hands of the House. I should like to have about half an hour or so.

Mr. Deputy-Speaker: I will call upon the hon. Minister at 3.30.

Shri Gadgil: Put some time-limit.

Shri Venkataraman: This matter has been considered elaborately by the Press Commission. My friend, Shri Chatterjee, read the dissenting minute. I want to place the opinion of the Press Commission in respect of this matter. The Press Commission state in paragraph 1131 of their report (page 435):

> "It has been urged by several State Governments that there is wide prevalence of writings making allegations—sometimes well founded and mostly unfounded—defamatory of public officials or Government servants. So far as

the Government servants are concerned, they are precluded by the Government Servants' Conduct Rules from making a rejoinder to any allegations made against them.... It has been urged that a criminal prosecution of the offending person or of the offending paper by Government servants or public officials is beset with numerous difficulties".

Shri V. P. Nayar: I want to ask a question, whether the Government Servants' Conduct Rules preclude refutation of allegations made against them in their private capacity also.

Shri Venkataraman: It deals only with their relations with the public.

Shri V. P. Nayar: You drew a distinction between acts done in the course of official duty and acts done privately.

Mr. Deputy-Speaker: This concerns itself only with public duties.

Shri Venkataraman: Yes.

Acharya Kripalani: Corruption is all official.

Shri Venkataraman: The report further says:

> "The Indian Penal Code itself recognises the special position of public servants. A whole chapter is devoted to offences for which only public servants are liable"

Then it says:

> "It is very desirable in public interest that there should be, in suitable cases, a magisterial inquiry or a police investigation in respect of serious allegations against a public servant even if the public servant himself is unwilling to initiate proceedings and clear himself of the charges before proceedings are taken against the offender".

So that if a public servant is not willing to clear his reputation, the means by which he can be forced to face an inquiry would be the proceedings now contemplated.

Then the Commission consider the various agruments and finally conclude:

> "We realise there would be some cases where serious allegations are made which would require police investigation. There may also be public servants perhaps with a guilty conscience who would not be willing to bring the cases into courts and clear themselves of defamatory allegations..

Acharya Kripalani: Because of guilty conscience.

Shri Venkataraman: They have said it is this clause which will compel them to face a cross-examination. Therefore, I submit in the opinion of a very enlightened body like the Press Commission, in the interests of purity of administration, the public servant concerned should be made to face a trial. This can be brought about only if a prosecution is launched.

I, therefore, submit, Sir, that the clause with the amendments which I have moved may be accepted by the house.

श्रीमती कमलेंदु मति शाह (जिला गढ़वाल---- पश्चिम व जिला टिहरी गढ़वाल जिला बिजनौर----उत्तर) : माननीय मंत्री जी ने बार बार प्रतिज्ञा तो यह की थी कि भारतीय दंड विधान में सुधार का जो विधेयक वे संसद के सामने रक्खेंगे, उस का लक्ष्य फौजदारी मुकदमों में न्याय को सुलभ बनाना और न्याय पद्धति को शुद्ध करना होगा, परन्तु मुझे लगता है कि इस विधेयक के विधान रूप धारण करने पर देश की न्याय पद्धति और भी अधिक विकृत, दूषित और भ्रष्ट हो जायेगी।

इस विधेयक की जो अभी तक हमारे सामने आलोचना हुई है उस से यही प्रकट होता है कि माननीय मंत्री का उद्देश्य केवल जिस किसी प्रकार भी सरकार का काम सरल करना ही रहा

[श्रीमती कमलेंदु मति शाह]

हैं । इस विधेयक की रचना के समय यह विचार कम ही रक्खा गया है कि जो व्यक्ति फौजदारी मुकदमों में अभियुक्त बनाये जायेंगे उन के साथ अन्याय न हो कर उन्हें न्याय मिलने में किसी प्रकार की अनुचित बाधा उपस्थित न होने पावे ।

इस विधेयक में सब से अधिक आपत्ति और आक्षेपजनक इस की २५ वीं धारा है जिस में मंत्रियों और अन्य सरकारी कर्मचारियों को साधारण जनता से ऊंचा उठा कर उन्हें विशेष अधिकार दे डालने का प्रयत्न किया गया है, जो प्रजातंत्र राज्य का एक कलंक है । किसी को भी किसी की उचित आलोचना करने का एक स्वतंत्र देश में अधिकार होना चाहिये । वाक्स्वतंत्रता, फ्रीडम आफ स्पीच, किसी भी देश में रहने देना सत्य का आदर करना है । इस विधेयक की २५ वीं धारा की व्याख्या को तो देखिये कि मंत्रियों तथा अन्य सरकारी कर्मचारियों की मानहानि के विषयों को पुलिस के हस्तक्षेप के योग्य ठहरा दिया जाये, इसका यह परिणाम होगा कि अनुचित सख्ती करने वाली पुलिस को जो न्याय अन्याय न देखने में पहले ही विख्यात है, यह और भी अधिक अधिकार मिल जायेंगे, जिस से मानहानि के नाम पर किसी भी साधारण व्यक्ति को सता कर पुलिस मालिकों को प्रसन्न करने की नीति का और भी अधिक तत्परता से पालन करेगी और अन्याय की वृद्धि होगी । सुधार के नाम पर तो विधान का ऐसा बिगाड़ना अंगरेजी शासन काल में भी नहीं हुआ था । माननीय मंत्री इस सम्बन्ध में अति अनुदार सिद्ध हो रहे हैं, यद्यपि संसद में बहुजनमत इस विधेयक के विरुद्ध है तथापि दल शासन पद्धति के अनुसार यह विधान बन ही जायेगा, क्योंकि हमारे गृह मंत्री अधिकतर संसद सदस्यों की बातों से सहमत न होना ही उचित समझते हैं । जिन विधेयकों का और संशोधनों का विरोध कांग्रेस सदस्य भी करते हैं उन्हें भी देश के हित का बता कर पास करा डालना हमारे मंत्री का मार्ग रहा है । यह विधेयक व धारा सचेतक के बल पर नहीं अपितु मंत्री जी के वाक्चातुर्य और हठ से पास होगी ।

आजादी के बाद जनता द्वारा बराबर यही मांग रही कि न्याय और शासन विभाग को पृथक पृथक कर दिया जाये। वह पुकार बिल्कुल व्यर्थ गई, उलटे इस विधान में शासनाधिकारियों की जनता आलोचना भी न कर सके इस के लिये एक संशोधन कर के उन अधिकारियों को बन्धनमुक्त कर दिया गया है । अब कहीं अन्याय भी होगा तो जनता की न्यायलय तक पुकार भी सम्भव नहीं । आप ही बताइये कि भारतीय दंड विधान में यह संशोधन न्याय में सहायक होगा या बाधक । पुलिस को जितने ही अधिक अधिकार दिये जायेंगे उतना ही अधिक अन्याय होने की सम्भावना है ।

शायद माननीय मंत्री का यह विचार है कि इस प्रकार के विधान से पदारूढ़ दल के विरोधियों की वाणी मूक और लेखनी कुंठित हो जायेंगी, परन्तु यह भी विचारणीव विषय है कि समय का चक्र कभी उलटा भी फिर सकता है । सच्चा न्याय तो वही हो सकता है जो बड़े छोटे सब के लिये समान रूप से लागू हो । हमें असत्य से भयभीत होना चाहिये न कि सत्य का सामना करने से ।

Mr. Deputy-Speaker: Shri M. D Joshi. He is not here? He has written me a note saying:

> "I am very much interested; I am a newspaper man; I wish to express my views, soon and so forth."

Now, Shri Gadgil.

Shri Gadgil: In fact the entire issue involved.....

Mr. Deputy-Speaker: Hon. Members who have spoken may please be short and brief so that they may give opportunity to others to speak. I cannot but call some hon. Members who have had a part in the Joint Committee.

Shri Gadgil: That is my nature.

Shri S. S. More: That is why you are out of the Ministry.

Shri Gadgil: You are right in a way.

The entire issue involved in clause 25 has been summed up by certain questions posed by Shri Chatterjee and I have not the slightest doubt that, to the extent possible and desirable, the hon. Home Minister will clarify the matter. My approach to this problem is not that of a party man, but I share the view with most of the Members here that corruption in this country has not only not decreased, but it is mounting up. It is, therefore, up to us, not as Members belonging to this group or this party or the other party, but as good citizens with a desire to maintain good reputation in this world that we should handle this problem with the earnestness it requires. I am, therefore, approaching this problem considering what exactly is the extent, what is the present situation and whether what has been provided for in the amended clause 25 is adequate or whether it is not adequate.

The present position is this. We have a press partly good and partly bad. It is not my desire to condemn the whole press but, it is a fact which many will admit dispassionately, that a certain section of the Press has been giving out stuff day in and day out and maliciously pursuing government servants. Ministers and other people charged with the administration of this Government. Because the Press is a great Power therefore it must be used with a great sense of responsibility. If an ordinary man does something by way of defamation the consequences are limited. But, if something appears against a public servant or a Minister in the Press, naturally, in a country where literacy is hardly ten per cent, what appears in papers is equated to be the truth. We have to work under limitation which we cannot avoid. Therefore, there is a greater moral responsibility on the press not to write anything in a reckless manner with uttar irresponsibility but with due care and caution. When the Press condemns or attacks a public servant it is not merely a matter between the two individuals. Therefore, in some sense, if there is defamation it is not merely a private offence; it is something more. If we appreciate that, if the criticism is made in the interests of public and good faith, it must be protected. If, on the other hand, it is not meant to be so, what shall we do in order to prevent this sort of criticism and at the same time see what we do not further open the flood-gates for corruption? I am therefore, submitting, Sir, that in view of what is happening today some sort of provision is absolutely necessary and nothing can be left to persons to prosecute privately in a criminal Court for defamation. I met a number of government servants against whom many things appear. I asked many of them; "Why don't you file criminal complaints against the particular newspaper or periodical?"—They quietly replied: "True, Sir we are defamed; but what about you Ministers? Day in and day out you are defamed. You do no go to any Court of law. You are well paid and you can certainly afford to pay the expenses of an eminent lawyer like Shri Chatterjee. You do not go. Why you ask small fries like us to go and prosecute individuals?"

Shri S. S. More: Protecting everybody is the remedy.

Shri Gadgil: Let us dispassionately consider. If you do not make any provision, what will happen? The same state which is there for the last so many years or decades will continue and gradually, just as a boy who has been again and again abused or beaten becomes completely indifferent and worsens, the same thing will happen. Therefore, some steps ought to be taken. Whether the step contemplated here is adequate or not is a matter for discussion and ulti-

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mate decision of this hon. House. The Government, when it introduced the Bill, thought that the particular offence should be made cognizable, should be enquired into by the police and that a complaint should be filed and the case should be tried by the District Magistrate. The Press Commission, by a majority report, stated that in view of what is happening in the country and in view of the fact that the line of criticism in a certain section of the Press is such that some special provision is absolutely necessary there is this agreement. Not only this, but you will find in the report of the Select Committee that the deputation of the working journalists also pleaded that there must be a special procedure. If it is agreed that the matters cannot be left where they are and that some remedy must be found, that remedy must be to take the first question posed by Shri Chatterjee, that it must not secure immunity for a corrupt officer and at the same time that it must be such as to make the responsible pressmen also not subject to any sort of prosecution or persecution. My humble submission is that in the Bill, as it has come from the Select Committee two changes have been made; in the first place it is no longer cognizable; what the working journalists, and in fact, every journalist in this wide country, said was "You are going to hand us over to the police bound hand and foot". All those objections are no longer there. The District Magistrate is also gone. The District was undoubtedly part of the executive. Now, the thing is to be tried by the Sessions Judge; he has nothing to do with the executive; he is not under their control even where the judiciary and the executive are not separate. Therefore, presumably there is an atmosphere of independence because the Sessions Judge is to try it and the complaint is to be filed by the Public Prosecutor after sanction has been given by this authority or that authority—that is a small matter. In course of discussion it was stated that there will be reckless complaints filed by the Public Prosecutor. I do not share that view. Even Dr. Lanka Sundaram, who has written a Minute of Dissent, has clearly stated that before a complaint is sanctioned and filed in the Court of the Sessions Judge, there is bound to be some departmental enquiry, and let us visualise how this scheme will work. Something appears in a newspaper; immediately notice is taken by the Department or the Ministry concerned: then, either the officer will be called and asked for explanation, and if a satisfactory explanation is given, there will be further steps to ascertain whether the criticism was made in an irresponsible manner, whether it is a malicious criticism, etc., in the Department itself. But if the officer fails to give a satisfactory explanation, then Government is bound to deal with that officer, not because they are interested one way or the other in the reputation of the officer, but because they are interested in their own reputation and they are anxious for survival and, if possible, to come back to power again. So far as the Ministers are concerned—the provision embraces Ministers and other public servants—the Ministers are bound to go in for prosecution if such a provision is made. If a Minister does not go, what will be the conclusion drawn by the public? Here is a Minister X, about whom certain hard things are said and also about his son or son-in-law, brother-in-law and so on, and the matter comes up before the Prime Minister or the Chief Minister of the State. Now, the Minister has to agree: otherwise, if he avoids giving consent to the initiation of a complaint in the Court of the Sessions Judge as contemplated in it, what happens? In the election campaign this very fact will come to the notice of everybody, namely, that complaints were made against X.

certain allegations were made against X. that in spite of the provision in 198A—now clause 25, and it might be section 198A when this is enacted—this Minister did not request the Government to launch a prosecution. People know how to deal with him. We have experience of that in the last general election, particularly in one of the southern provinces where accusations were made against some Ministers and they were singled out by the electorate and thrown in the scrap. Just see how it will work out. If you think that by not including the Ministers, this result will be achieved, it is another matter, but so far as I am able to see, it will be like this.

There comes the second question which has been posed by my hon. friend, Shri Chatterjee: will the officer be dealt with? The officer will be dealt with departmentally if he is not able to give a satisfactory explanation, not because the Government have any love for his reputation, but because the Government cannot allow accumulation of prejudices of being a corrupt government, an inefficient government, this government or that government, which does not deserve the franchise of the country. It is from that point of view that the Government will be forced to take steps against the particular person concerned. This is how the process reveals the possible consequences of accepting a scheme as proposed in section 25.

The third question, very rightly posed, was: why this special procedure? I have already explained this partly. The Press people naturally claim some privilege. They say they are different from an ordinary citizen.

Shri S. S. More: They don't.

Shri Gadgil: In a way they are perfectly right. When the Sessions Court procedure is a special procedure for the complainant, it is equally a special procedure for the accused, where obviously a fair and independent trial is assured. Therefore, if we are agreed that this cannot be met by just leaving the thing as it is and allowing the situation to deteriorate, then some kind of a special procedure is absolutely necessary.

Some point was made that a complaint may be made, but the real aggrieved person will not be forthcoming. It is a good argument and a forceful agrument, and I am glad that a suitable amendment has been moved by Shri Venkataraman. Even if this amendment was not there, ordinarily one knows that if a witness, who is, so to say, the ace witness, is not examined, the Court can be asked by the accused to infer certain things. But by making this amendment—and I understand it is being accepted by the Government—in all cases except a few where the reasons will be recorded as to why a particular witness has not been called, the man against whom some charges have been levelled by the Press will have to appear and will have to subject himself to cross-examination.

The two things which were very objectionable in the original Bill, namely, the crime being a cognizable crime and its being tried by a District Magistrate, who is a part of the executive, are now gone. There is this additional feature that the real complainant will be examined and will be in the box and the accused will have the chance of cross-examining him, which is a good provision; and the last one, namely, some provision for compensation. Here also a special procedure is provided for. If we adopt the amendment moved by Shri Venkataraman, there is again a special procedure. The ordinary law of the land is that if the Magistrate finds the prosecution to be malicious or frivolous, this, that and the other, then, under section 250, it can impose a fine. Now, obviously, complaint filed by such a high official, namely, the Public Prosecutor, after due

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sanction by the Cabinet or the State Government can never be called frivolous. It is obvious. It will at the most be, that it is unproved. But it is because of this special nature of the initiating authority that some such amendment was necessary. If I am not making a breach of privilege, when this question of compensation was being discussed in the Select Committee, the views were equally balanced. It was not possible for the Chairman, whosoever he was, to progress by his single casting vote. But, here, as I understand, this provision suggested by Shri Venkataraman in his amendment is all to the good. To what extent is compensation to be given is another matter. But the very fact that compensation is provided for will be a fairly sufficient safeguard for the Government to consider carefully before they launch on any prosecution in a reckless manner. I therefore very respectfully submit that the objectionable features are gone. Two good features have been introduced and if we are agreed that to leave matters as they are is dangerous, then, in the absence of any other constructive alternative. I respectfully submit that this, on the whole, is good, and the House should accept it, not on any party consideration but because at least they are calculated to lead to some good result. The officers are more nervous. I do not know why people think that because of this provision, because the Public Prosecutor files a complaint, there will be a special prestige. There is no question of special prestige. It may be that if it was to be in the Court of an ordinary First Class Magistrate, you might say that the Minister might have influenced them here or there. But now, it is in the Court of a Sessions Judge, and so, all these things are not there. I do submit that this will force the Government to take notice of criticism against their own officers and if the criticism is found to be correct, deal with the officers, and if it is not found correct and is found to be absolutely irresponsible or reckless, then, the prosecution will be launched which will also serve some salutary purpose so far as the toning of the Press is concerned and a part of which is indisputably not all that it should be.

[SARDAR HUKAM SINGH *in the Chair*]

Shri Raghavachari: I want to start by saying that the Home Minister was growing eloquent on the new procedure that he has provided—the procedure for a very dispassionate enquiry to enquire into the allegation of corruption or defamation; that here is now an opportunity for people who are interested in the purity of public administration; there will be judicial enquiry into these matters. Instead of welcoming this new change which he was introducing for the good of the whole country, we are surprised and want to criticise it! That was the fundamental argument which was very seriously advanced by the Home Minister. I shall examine that argument. We are mostly concerned with defamation that is sought to be made the subject of this special procedure; that defamation is of a public servant in the discharge of his duties. I take it that this defamation must have some relation only to corruption. The other things are purely personal and possibly the State may not be interests. Therefore, I examine, only that portion, that is covering corruption. It is common ground that this disease of corruption, instead of going down in the independent India is on the increase. Let us not condemn wholesale any group of people. But it is a fact that we are finding more instances of corruption of a most egregious kind, involving lakhs of rupees. Therefore, this corruption which is so rampant in the country must necessarily be the subject of some serious consideration. We must not also forget that now, it is proposed to cover not only the public servant; it is also to cover the Ministers. The Ministers included in the list—Deputy Ministers, this that and the other—all kinds of people. Self government has come to so many States in India and every State has 30 to 40 Ministers, not to speak of the Ministers' groups. We have got in all hundreds of such people. All these are now in the new-found independence, new-found power, new-found authority, new-found opportunities of finding something. I am not complaining or criticising wholesale that everybody is like that. In the day to day administration, we are finding many, many things which really shock anybody who has any notion of clean or pure administration. It may not be always they take money into their pockets. We find so many things done to benifit them and the whole class of their friends and relations! Such things are going on. What our friends want is, this kind of reckless dealing in which they are indulging should not go on. My friend, Shri Gadgil, would say, wait for five years and leave it to the public to pronounce judgment at the next election. That means you give them freedom to make as much as they could and mismanage the affairs, and at the end of the fifth year, you expose them for the people's judgment. He was citing an instance from southern State and said that those people—Ministers—were singled out and judgment was pronounced against them. .What is it that this Government is doing with them? They are making such people Governors, or some other dignitaries. Whenever opportunity comes they are being replaced into position from which the people pulled them down. If the diagnosis of Shri Gadgil is correct, no judgment of the people will be valued if it is not in consonance with their liking. Therefore, to say that these things are eating into our vitals is not enough. The offenders should be punished. I would quite welcome the provision if the purpose of the Home Minister is that he wants this corruption to be rooted out. I can well understand that if he makes a provision for a judicial enquiry or an enquiry into everyone of those cases. But what is it that he has provided? What he has provided is, he will choose the Government will choose a set of people who are supposed to have made this allegation of corruption—maybe in the Press or maybe otherwise—and then they are asked to defend themselves. In the course of the enquiry, if the man should prove that a particular individual against whom the allegations of corruption were made was really corrupt, then, surely, the complainant—who becomes accused—may be acquitted. But does this provision povide that, if it is found that the man who was alleged to be corrupt was found to be truely so, would be punished? Is there anything to say here that he will be punished? The person making the allegation may yet be discharged or acquitted, but does it follow that the culprit is punished? There is nothing to the effect there. If it is the hon. Minister's purpose that in every case, where an allegation is made against a public servant, it has to be judicially determined whether it is true or not; let there be an investigation and that investigation must be started against the individual with the aid and help of people who could really support the case. But, in fact, we have been seeing Act after Act is being amended so that there can be no evidence forthcoming in proof of the corruption. The other day, we had the Indian Penal Code amended. For long, the position was that the man who offered a bribe was available to give evidence. But now, we made him also an offender. So, the man who offers the bribe and the man who takes the bribe both will not say anything about it. How do you get evidence for the alleged offence then? That is one method that is adopted in the Indian Penal Code that really hinders corrupt people being booked. We have gone on providing that anybody who defames another individual or alleges corruption against another individual would himself be run in as an accused. Even after he escapes

[Shri Raghavachari]

after so much trouble or botheration, the man who is really corrupt and whom the Government say they are anxious to punish will not get punished because of the new amendment proposed by my hon. friend, Mr. Venkataraman. As somebody was saying, if it is false and either frivolous or vexatious, then an opportunity is given. Mr. Gadgil was telling us that it is impossible to think that it will be frivolous because so much investigation has been done and the Public Prosecutor has filed a complaint; so, it cannot be frivolous or vexatious. The provision that we have here is, therefore, not going to serve the purpose for which they say they want this. The question is not seriously in the minds of the Government. That is how I take it after examining the remedy that they have provided and it is not going to achieve the result which they want to achieve. There is the Anti-Corruption Act. There is a provision in a Government Order that in Madras if five disinterested persons stated that they reliably understood that a particular public servant was believed to be corrupt by them, an investigation should be started against him forthwith. I understand that something of that kind may be in the Anti-Corruption Act. They could make a similar provision if any allegations are made in the Press or in any other way. Let there be a judicial investigation. If it is found that he has committed the offence, punish him; if not, leave him. Instead of doing that you simply want to harass people who expose or criticise. I have no doubt in my mind that all this endeavour to amend the Criminal Procedure Code is the result of the irritation felt by the people in charge of the administration and the Government. Everywhere and in every place there are these complaints against them of taking bribes and they are vexed with these things. But what is the remedy? How can you put an end to all these things? We can as well say that no man shall hereafter open his mouth and say anything against any public servant. The whole State machinery is behind the complainants. The Government itself is the complainant. I do not want to elaborate the point. The poor accused must find himself in a helpless condition not only for the funds required for his defence but also in so many other ways. Therefore, their real intention—the intention of the people in charge of the Government—is that they want another kind of weapon with which they can silence everybody who raises his voice against them.

What is democracy? In a democracy, you must have equal treatment. Why should public servants be treated differently? Is it not discrimination? You should examine the nature of the offence involved in defamation. Defamation, as I understand, is concerned only with the person; the injury is more or less personal. When a particular person is defamed, why should the machinery of the Government be burdened with the responsibility of punishing the man for exposing that person? Is it not discrimination? When ordinary people are defamed, they alone should take the trouble and botheration. Because they happen to be public Servants—if you go through the definition of the word, many of my friends have said that it includes *choprasis* also—whose purity is really the concern of the country and whose corruption really hurts the country, a different treatment is meted out to them. If they are personally defamed, then they can take measures in their own individual capacity. Why should the State start prosecution? I wonder why public machinery and public funds should be used for this purpose.

Mr. Chairman: I would request the hon. Member to close within one or two minutes because there are five or six hon. Members and other Members also are there.

Shri Raghavachari: I will be very brief. The other thing relates to compounding. They have made this offence compoundable with the permission of the Court. You know the Courts; the word 'compounding' is enough for them. Therefore, in those cases after all this machinery has come into play and supposing it is proved that the allegation was true some compounding may take place and nothing will see the light of day. The only other thing that I wish to submit is that this procedure appears to me to be conceived more for silencing public criticism which in a democratic country is necessary to preserve a healthy public opinion.

I have to say one word about the Press. I find from the discussions and from the statement made by the Home Minister as to what he heard from the Press people there is a grave misapprehension. The Press people say they never made a statement as the Home Minister represented them to have made. Their point of view was this. There are other provisions and other attempts against the Press with a view to control the Press. You can proceed with them. If you are determined to have this thing also then make a provision that it will be with the sanction of the highest authority and in the highest Court. That is how they seem to have made a representation and that is being put down as if they are agreeable for being prosecuted. I think it is not proper to say that they have agreed to be prosecuted. You want them to be exposed to the threat of prosecution so that they too may not help to ensure purity in the administration by publishing the allegations.

Mr. Chairman: I will request the hon. Members to exercise some restraint and finish within a few minutes.

Shri V. G. Deshpande: This new amendment which, according to me is a sacrilege on democracy, is supposed to have no parallel in the laws of any land in this wide world. One hon. Member claimed that the situation in India is also unique. I do not know in what sense the situation in India is unique; whether corruption is unprecedented in this country or whether the Press is indulging in unprecedented criticism against Ministers. At the eleventh hour, Shri Venkataraman has come to the rescue of the Home Minister as he does at the time of every Bill. But, I find that with all the help being given by him at the eleventh hour, the complexion of the Bill is not materially changed.

Our main objection to this Bill was that that a special procedure is being followed in the case of Ministers and other public officials. As I said while speaking on the general discussion, I am acquainted and very well acquainted with criminal procedure, if not as a lawyer, as an accused. I have gone even through this section of defamation, I mean, section 500 I. P. C. My experience is that in a defamation case, it is the complainant who has to suffer more. I have found that I was granted exemption while the complainant had to attend the court for months after months. Then, I was not made to stand in the witness box; but the complainant had to stand cross-examination for days together. Ultimately, the person who had made the complaint against me had to compromise the case apologising to me for having made the complaint. We find here that you are giving a privilege to the Ministers and other public officials not to be present in the court. The second concession is that he may not come and give evidence in the case. As I have said, Shri Venkataraman's coming at the eleventh hour to the rescue of the Home Minister has not improved matters. On the other hand, I would say that the matters have been made worse by these amendments. Therefore, our Deputy-Speaker's requests that now that the issue has been narrowed down, and the main objection has been removed, do not stand to reason. Previousy nowhere was it said that nobody will be

[Shri V. G. Deshpande]

called as a witness. Now a provision has been made: unless the Court of Session otherwise directs. It means that a provision has been made that the Court of Session can direct otherwise. No limitations have been placed on the discretionary powers of the Court of Session. It was said that an Ambassador may be thousands of miles away. I say that we can wait in the case of the Ambassador if his facing the Court is essential. Nowhere is it said here that the complainant would not come to the Court only if he is out of India. It may be said that Ministers are very busy people. When exemption was granted to me, my lawyer asked me, what do you do. I said, nothing. Anyway, my lawyer said, he is a very important man and he would not have the time to attend the Court. The Court at once granted exemption. In the case of the Ministers, it may be said that they are important men, that they have to attend to the State duties and their coming to the Court may not be possible. When such a request is made by the Government lawyer, the Sessions Court may accept it. In this way, I find that Shri Venkataraman's eleventh hour help may not be of much avail so far as these public servants are concerned.

My main objection to this provision is, as has been repeated by speaker after speaker that a special privileged class is being created in the country against the fundamental rights guaranteed and against the guarantee given that all will be treated as equal before the law. I can understand to some extent petty public officials getting this help from Government. I cannot understand why Ministers alone are selected separately for this special privilege. I have given notice of an amendment. If a Minister alone is to be placed in this separate category, I ask what is the principle on which you have conferred this special distinction on the Ministers. According to me, a Minister is an elected dignitary responsible to the people of this country. If a Minister is to be given this privilege, I say that other persons also responsible to the public and elected officials should get the same privilege. My amendment No. 472 says:

> After "or a Minister" insert "or a Deputy Minister, or a Minister of State.."

Why not a Deputy Minister? Perhaps, it may be said that a Deputy Minister is included in a Minister.

Shri N. C. Chatterjee: He may accept it.

Shri V. G. Deshpande: He may accept it. I say,

> "Minister of State, or a Parliamentary Secretary, or...."

An Hon. Member: All the V.I.Ps.

Shri V. G. Deshpande: I may say, considering the dignity of the office why not also—

> "a Speaker or a Deputy-Speaker of the State Assembly or the House of the People or the Vice-Chairman of the Council of States, or Chief Whips or Deputy Chief Whips of the party in power in any legislature,.........

They are also sufficiently important dignitaries.

Pandit Thakur Das Bhargava: Why not the Leader of the Opposition?

An Hon. Member: Why not all Members of Parliament?

Shri V. G. Deshpande: "or, office-bearers of local bodies or Vice-Chancellor or Treasurer of a University."

We have found that much criticism is being levelled against Mayors and Chairmen of Municipalities, and even *sarpanches* of the *gram panchayats*. In short, I propose that if this privilege is to be given to the Ministers, all elected office-bearers who, in fact, ought to be criticised, should have been included.

Then, Shri Gadgil has very solemnly come forward and said that if the Government does not take any action, the nemesis will come and retribution will take place at the time of the election. I know why they are afraid. Our experience in the past is this. The Congress Party has never shown such wisdom in the past. I know a Chief Minister of a State was accused of very serious offences, not by an irresponsible paper, but by Members of the Opposition, but regular prosecutions were launched in the Court of law. When the machinery and the wheels in the Congress Party began to turn the other way we know that the prosecutions were withdrawn and that particular person was again made the Chief Minister of that State. When corruption is being supported in this way in this country, it is too high a hope to place with this present Party in power that because they do not go to Court or they do not want any case of defamation against a paper, the purity of administration is likely to improve. I say that there is greater corruption at higher quarters. Therefore my suggestion is, at least remove the Minister here. He is not guided by the Government Servants Conduct Rules. In fact, he attacks the Members of the Opposition parties. If he is throwing stones at others, he should also be prepared to receive counter-blows. Therefore, if you are not prepared to remove the Ministers from this category of the specially protected officers, I say, add all these officers including Deputy Ministers, Ministers of State, Parliamentary Secretaries, Municipal Chairmen, and other officers and abolish this law of defamation. Unless that is done, this law will not help you in any manner.

Mr. Chairman: Shri Tek Chand. I must remind the hon. Member that we have imposed a time-limit of ten minutes.

Shri Tek Chand: I thought that in this one particular matter, if you had relented, I might have been in a position to make a contribution and tread on a ground not yet completely or entirely touched by some of my colleagues. I will leave it to your indulgence.

Mr. Chairman: My only difficulty is that other hon. Members also have the same claim.

Shri Tek Chand: Even within these few seconds, I could have urged something.

Mr. Chairman: That I would allow you.

Shri Tek Chand: A new chapter is being written, a new inequity is being added, a new immunity, a new privilege is being added to the already existing immunities, privileges whose number is legion. You have got to turn to any new Act whether of a provincial or of a Central legislature and you will find the never missing section that all public servants connected with this particular enactment are immune from the clutches of the law, whether it happens to be criminal or civil. This morning, I spent some time in the Library in search of a precedent for this and I came across Jennings. Jennings says in his book *Law and Constitution*, third edition, that the right to sue and be sued, to prosecute and be prosecuted for the same kind of action should be the same for all citizens, immunities being given or certain privileges being given to minors, lunatics, etc. Then I turned to Ridges and he seems to say in the eighth edition of his famous book that equality before law for citizens and public servants alike should be the rule. "Officials must not differ from ordinary citizens." There is one noticeable or notable, or I would say notorious departure from this principle. This is the *Droit Administratif* of France, and to a partial extent of Germany and Belgium. Every jurist on constitutional law has deprecated it and I consider it to be the worst stigma that besmirches any constitution. Apart from that I am not aware of any other statute, except the Bill in contemplation which is the thin end of the wedge of this peculiar law.

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3 P.M.

Hon. Members after hon. Members have been concentrating on one aspect only to the exclusion of the other. While endorsing their views regarding Ministers and bribes they have not thought of the real matter in issue. The real matter is that immunity is being granted to any other public servant employed in connection with the affairs of the Union or of a State. Therefore, any public servant, be he a *patwari*, be he a *patel*, be he an excise inspector, be he anybody, he is going to enjoy that immunity. And what does that immunity consist in? Again, we have been sidetracked when people have been talking here of the newspapers. About newspapers I do not wish to say much, in view of the short time at my disposal. But I do wish to say that the criminal law of defamation of this country as laid down in section 499 of the Indian Penal Code includes among criminal libel not only written word, but also spoken word. Therefore, if in any village anybody were to casually mention: this *patwari* is a bribe-taker, this policeman has been terrorising the public, such and such officer has been doing improper acts, the result will be that the citizen who might have uttered a gossip with the best desire, is faced with the might of the State, the might of the Union: and the entire prestige of the Government on the one side and the poor gossip-monger assuming him to be a gossip-monger on the other. This *patel*, this *patwari*, *this* excise sub-inspector is going to have all the privileges and enjoy the halo of glory that attaches to a public prosecution of that nature. Ministers are responsible people: they are the choice of the public. I wish they would not insist upon an immunity of this type. I implore of them, with all the persuasiveness at my command, I do ask them, not to insist on this privilege. But if they must have it, by all means, but, pray, do not place in the same category any public servant employed in connection with the affairs of the Union or a State and you know their number is a Legion.

Again, if you must have such a law, let it be confined to the written word, not to the spoken word, not to slanders, but to libels. The parallel law that we have of criminal libel in England confines itself to the written word. With respect to the spoken word there is only one solitary exception; when the spoken word is likely to lead to an apprehension of breach of the peace.

The hon. the Home Minister waxed eloquent—and perhaps properly—regarding the virtues of the jury system. Speaking for my part I was sceptic. But he said that the juries of our country are going to dispense justice. But curiously enough when I turned to this particular provision, I find that that power is taken away from the jury. It is the Sessions Judge who is going to try this particular criminal case, but he must do so without the jury. Therefore, there is a fear that the juries might feel that they are going to let off the accused or the accused was not as guilty as he was pointed. Therefore, juries have been excluded, eliminated expressly. Why?

When I come to the amendments of my hon. friend Mr. Venkataraman they are interesting. In his magnanimity he is going to allow compensation, provided it is proved that the prosecution, or the accusation is false and frivolous or in the alternative false and vexatious. The two must co-exist. Now I put it to him—I wish he were in his seat—in all humility and in all seriousness: before such a prosecution is launched, a very important officer of the Union Government, or the State, of the standing of Secretary, is going to sanction the prosecution. Then the prosecution will be launched. Will there be one Sessions Judge, who is going to say that a prosecution sanctioned by a Secretary of the Union Government, or of the State Government is frivolous. That is to say, a man in order to get this paltry compensation, not exceeding Rs. 1,000 has got to establish to the conviction of the Sessions Judge that the accusation against him was false and it was also frivolous. The word "frivolous" has some meaning attached to it. It has been interpreted in a number of cases by the High Court. Who is going to believe, who will dare allege, how will a Sessions Judge believe that this prosecution sanctioned by the highest officer of the Union Government has been ordered out of frivolity? Therefore, this safeguard is being provided by my hon. friend Mr. Venkataraman in all seriousness. He perhaps did not realise its implications. It is within contemplation of the author of this amendment that Government while granting sanction can itself act with frivolity or vexatiousness.

My submission is that this provision is absolutely illusory. I put it to anybody: for a second let him put himself in the chair of a Sessions Judge. How dare he suggest that a sanction which had been given by a very responsible officer of the State was given out of frivolity or vexatiously? Even falsehood will not fetch him the miserable compensation. It must be falsehood accompanied by frivolity, falsehood accompanied by vexation. Then, it is said that if it is truth, then truth is an absolute defence. I must revise my knowledge of section 499. Truth is not an absolute defence. You have only to look at exception No. 1; it is truth plus public good plus good faith; then, it may be a defence. And what is good faith? It has been erroneously assumed that good faith for purposes of this particular section means honesty, goodness, convictions etc. Certainly not. What it means is that a thing is said to be done in good faith, if it is done with due care and attention, not honestly or negligently. Therefore, you can well conceive of a case where a good man, an honest man, a clumsy man, but a negligent man, finds himself in the coils of law. Do not think good faith is going to be any defence for him? If anybody has got any doubts, then he has only to look to section 52 of the Indian Penal Code, for the definition of the term 'good faith' which says that an act is said or believed to be done in good faith, if it is done with due care and attention. Then, you would not import into your penal provisions a definition of 'good faith' as contained in the General Clauses Act, which is totally different. Therefore, when you are interpreting, and telling us that truth is a safeguard, that good faith is a safeguard, I would say all these safeguards are illusory. They have nothing whatever to do with it. A clumsy man, a negligent man, and an honest man is not going to be protected under this law.

Acharya Kripalani: That is not the intention.

Shri Tek Chand: Regarding compensation, I would say that a criminal prosecution is a terrible ordeal. It is a nerve-racking, agonising, exasperating ordeal. A man's nerves are shattered; financially he becomes crippled, and in society he becomes sometimes a social pariah. To that man you say, "No doubt, you have been treated in that manner, no doubt, as an under-trial prisoner, you had to undergo all this, and you had to forfeit your liberty, nevertheless, as a pittance, we shall give you this amount; we will not be satisfied if you prove merely the falsity of the case, we will be satisfied if you prove falsity plus frivolity; then, we will grant you this pittance in the form of Rs. 1,000." Do not forget—I put it to my hon. friend the Deputy Home Minister—that in England, as a result of a false case being proved, Salter got compensation to the tune of £5,000, and Adolph Beck got compensation to the tune of £6,000. Almost a century ago, in the year 1858, the first law was passed, followed by similar laws in 1908, 1948 and 1952, whereby an acquitted person in England is entitled to compensation, and it is a substantial compensation at that. And you in your

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bounty say, prove falsity, and frivolity, then we might think of giving you something.

Shri V. P. Nayar: I am sorry I have no new contributions to make, as was promised by the hon. Member Mr. Tek Chand, who preceded me. I shall in all humility try to confine myself to some of the points raised, with, of course, a certain emphasis on a few of them.

The hon. Minister, while replying to the debate on the general discussion, told the House that as far as Government were concerned, they would consider each and every amendment on its own merits. He also suggested that Government will not issue any sort of whip. I wonder whether if the hon. Home Minister meant what he said, all this discussion on this provision was at all necessary, because in the case of this particular provision, we find that from every section in the House, including the section of the hon. Home Minister, there has been very strong opposition. Some of the hon. Members of the Congress Party also have indulged in almost unrestrained condemnation of this provision. There has not been a single wholehearted supporter for the hon. Home Minister, although at the eleventh hour Shri Venkataraman tried to come to his rescue. It was rightly pointed out, however, by the Deputy-Speaker that Shri Venkataraman was speaking in an apologetic tone. I have been almost closely following the entire discussion on this particular Bill. Many adjectives have been used in respect of it. In fact, Dr. Katju lamented the use of certain adjectives. Some have said that this is a reactionary Bill, and some others have said that this is a retrograde Bill. I do not agree to that. I only say that such mild language as was used by the hon. Members had to be used, because the language itself is not rich enough to give a proper word to describe what it is.

Acharya Kripalani: Suppose we say it is 'Katjual'.

Shri V. P. Nayar: That may be better. Sir, I consider this as an atrociously wicked provision, and nothing short of that. The confidence of the hon. Home Minister in bringing this forward, and in clinging on to it is because he has the confidence to goad his majority into action in the lobbies when voting.

I do not propose to deal with the constitutional merits, or whether this particular provision will stand the test of constitutionality or legality, because I find that much has been said already on that. All the possible arguments on the constitutionality or otherwise of this particular provision have already been advanced. I was surprised the other day when the hon. Home Minister invoked the help of the Press Commission's Report. And in order to impress upon this House the impartiality and the importance of the Press Commission's Report, he cited the example of Dr. C. P. Ramaswami Iyer as a Member of the Press Commission, and said, here is a man who was very great in the public life of this country, and who was very great as a lawyer. I wonder whether Dr. Katju had known anything about Dr. C. P. Ramaswami Iyer's "greatness" at the time when he happened to be the Dewan of my State. I am saying this, because Dr. Katju's reliance on Dr. C. P. Ramaswamy Iyer's wisdom was perhaps more than his reliance on the entire Press Commission's Report. When Dr. C. P. Ramawswami Iyer was the Dewan of the State from which I come, his regime was perhaps the worst which recent Indian history could provide.

Shri Raghubir Sahai (Etah Distt.—North East *cum* Budaun Distt.—East): How is it relevant?

Shri V. P. Nayar: Please bear with me. If you want, I can quote from the speech of Dr. Katju in particular reference to this.

Mr. Chairman: He might have said that. But would it be relevant here to describe how Dr. C. P. Ramaswami Iyer behaved there....

Shri V. P. Nayar: I do not want to say....

Mr. Chairman: Why not come direct to this amendment?

Shri V. P. Nayar: I say this because it is the principle of this particular section....

Mr. Chairman: We can ignore his opinion and go on straight to the amendment.

Shri V. P. Nayar: Whose opinion, Dr. Katju's or Dr. C. P. Ramaswami Iyer's? If Dr. Katju's opinion is to be ignored, I do not have to say anything.

Mr. Chairman: The hon. Member may proceed with the amendment itself.

Shri V. P. Nayar: I only say that the Press Commission's Report when it was....

Shri Sarangadhar Das (Dhenkanal—West Cuttack): On a point of information. When a Minister has mentioned the name of somebody and praised him for certain qualities, is it not left to the other Members of the House to say whether that praise is correct or not?

Mr. Chairman: Even if it is alleged that something has been said by way of praise, it does not become a question at direct issue which we should begin to discuss at length, and leave the matter that is directly under discussion.

Shri V. P. Nayar: I am submitting this, because it was suggested by the hon. Home Minister—I am reading from the debates:

> "I will single out one name, that of Sir C. P. Ramaswami Iyer, a most distinguished lawyer in his own time, a great advocate, a great civilian administrator, a great figure in public life" and he justifies the recommendation of the Press Commission for the particular provision on defamation.

Mr. Chairman: Now that he has put these adjectives for that man, it does not mean that the discussion should proceed on whether these adjectives are justified or not.

Shri V. P. Nayar: I am only pointing out that even during the tenure of Sir C. P. Ramaswami Iyer as the Dewan of the State, when the Union laws did not bind the Travancore-Cochin State, or the Travancore State, as it then was, even the "great" legal acumen that he possessed did not make it possible for him to have a similar provision made by way of a similar amendment to the Criminal Procedure Code. That is the only point which I wanted to say.

There was a reference made to the Press Commission's report. But Dr. Katju never gave us any indication of the note of dissent therein. You know that the Press Commission had 11 people and it was already pointed out by Shri Chatterjee that 4 members had condemned this particular provision. That has never been indicated in the speech of the hon. the Home Minister. The hon. Home Minister has a characteristically inverted vocabulary. When he says that the Government stands for law and order, what we should presume is that the Government wants to disturb law and order. When he says that he is keen on rooting out corruption, we must naturally presume that he is intent, that he is keen, upon encouraging corruption or shielding corrupt officials. This particular provision shows that very clearly. Dr. Katju knows, the Home Minister knows, that at present the entire administration has more of corruption than in any preceding year.

Acharya Kripalani: He does not know.

Shri V. P. Nayar: He must be knowing.

Acharya Kripalani: Not at all.

Mr. Chairman: Let there be no discussion about it.

Shri Dabhi (Kaira North): On a point of order. Can any hon. Member impute motives to a Minister, that he is encouraging corruption?

Mr. Chairman: Motives not to one individual Minister but to the Government.

Shri Dabhi: He used the words "Dr. Katju".

Mr. Chairman: He corrected himself by saying 'Home Minister'. I was watching that very carefully.

Shri V. P. Nayar: I did not say that....

Dr. Katju: I have no objection to any hon. Member referring to me in any way—by name, by face or by anything. I have become accustomed to that.

Shri V. P. Nayar: The interrupter must know that I distinguish between knowledge and motive. I never alleged any motives. I say that in the present administration....

Mr. Chairman: But the hon. Member did use the word 'intent'. Therefore, that objection was raised.

Shri V. P. Nayar: Still there is that difference. It is not as if we have only one form of corruption. At present, we have other forms of corruption. You have any amount of the various forms of corruption, so much of jobbery, so much of nepotism, so much of graft. I would even say there are indications that the corrupt officials have been indulging in 'white slave traffic'. If the Home Minister is very keen to root out corruption, is it necessary that we should amend this particular provision of the Criminal Procedure Code? In Delhi, we know that there is an under-world in the official circles full of corruption, full of every form of corruption. Does not the Home Minister know that it is the talk of the street? Here in Delhi there is a top engineer who has built about 10 buildings in recent years. I can relate any number of cases

Shri V. G. Deshpande: He will be given an extension.

Shri V. P. Nayar: The Home Minister knows that I can give more instances; with all this, he says: "Look here. What is your objection? The Communists may object or other parties in the Opposition may object. But look here, a very impartial Commission, the Press Commission, has reported; not only the Press Commission, but also the most eminent member of the Press Commission". There is a saying in our language which, if rendered in English, would read like this: for a "cut-throat, the witness is a robber or a house-breaker." It is something like that.

Acharya Kripalani: It is in every language.

Shri V. P. Nayar: I want the Home Minister to understand that if he is keen to root out corruption, it is only necessary to give a call to the subordinates in service. Ask your subordinates to expose their superior officers. You also use all the papers and the radio to give details of the corruption which are exposed by the subordinate officers and then watch for the results. It is not by giving protection or taking protection for themselves from going to the court of law that you can root it out. In fact, if this is continued like this, I do not know where he will take us to.

Sir, I have suggested an amendment; I have suggested it only as a concession. I believe that the Home Minister will act up to his words. He said that every amendment would be considered on its own merits. Before the prosecution is launched. I want a preliminary hearing also in which the person who is complained against will also get an opportunity. I find there has been much borrowing from the English Act. I find that there is a corresponding provision in the English Act which says:

> "No criminal prosecution by way of indictment shall be commenced against any proprietor

publisher, editor or any person responsible for the publication of a newspaper for any libel published therein without the preliminary order of a Judge in chambers. Such application shall be made on notice to the person accused who shall have an opportunity of being heard against it".

I submit that in the present context we have to encourage public criticism. When Government make an attempt to gag public criticism, at least so much of reservation should be kept in favour of the Press.

Pandit Thakur Das Bhargava: I thank you for kindly giving me this opportunity to say something in regard to my amendments. In the first place, I would respectfully bring to the notice of the House that amendment No. 536 which I have moved to section 503, has not in the heat of the moment, been referred to by other hon. Members. This relates to commissions. Now, the amendment in the Bill is that every Court is being given the power to issue commissions. Even a Third Class Magistrate or Second Class Magistrate is sought to be given these powers. My humble submission is that if these powers are given like this, there will be a plethora of commissions and public interest will suffer. The present position is that even a Magistrate of the First Class is not given these powers. Now, my amendment says that so far as a Magistrate of the First Class is concerned, he may be given these powers to issue commissions without reference to District Magistrates or any other officer. So far as Second Class Magistrates are concerned, they ought not to be given these powers because they are liable to be abused. Friends will be sent as commissioners the evidence of those persons will not be taken and public interest will suffer. I would respectfully beg of the House kindly to consider whether it is not an amendment directly connected with this particular provision.

Coming to the other provision about defamation, I stated at the time of the consideration stage that I did not like a provision of this nature because it was undemocratic. To start with, it is wrong to make a difference between citizen and citizen on the question of procedure or on the question of substantive right under the law. I referred to the *Droit Administratif*, and France is the only country I know of where such a provision exists. I do want that some sort of provision may be made, but I do not like this particular provision. So far as the Governor, President, Rajpramukh and Vice-President are concerned, you make any provision and we will accept it, because nobody has any sort of objection to that. Even my friend, Shri Sadhan Gupta, also seemed to agree to that. The question is as regards other public servants. Even so far as Ministers are concerned, they stand as a class. I am opposed to any Minister being given this sort of protection. I want that the Ministers may be regarded as belonging to the common run of citizens in India, but at the same time, I can understand that there is something to be said in the case of Ministers also. So far as the other public servants are concerned, I am definitely of the opinion that it is a wrong step that we are taking in enacting clause 25.

An Hon. Member: Hear, hear.

Shri Raghavachari: What is the use of 'hear, hear?' You will vote differently.

Pandit Thakur Das Bhargava: So far as this provision regarding public servants is concerned, I want to know whether it is the right approach at all. If a person has been complained of—and there is so much of complaint in this country—that on the score of corruption, bribery, nepotism or favouritism, we know that the proper approach is this. You go into those complaints, appoint committees, and if these are not well founded, you have recourse to other remedies.

Pandit K. C. Sharma: There is section 211.

Pandit Thakur Das Bhargava: There is section 211. There is also section 182. If a person makes a wrong complaint, then only with the consent of that particular officer concerned you can proceed, or if it does not relate to any case, even without it you can certainly proceed against the offender.

Pandit K. C. Sharma: Private complaint.

Pandit Thakur Das Bhargava: So far as the officers are concerned, we have recently had a case against Mr. Venkataraman under Act XXI of 1850. A Commission was appointed, it went into the question and after its findings were given, the man was prosecuted. I want to know what is the necessity for changing this law.

There is another course which I am going to submit. Suppose there is a complaint against a particular high officer. Let Government institute inquiries. If the Government come to the conclusion that the officer is corrupt, Government can certainly just ask him to bring in a complaint. If the Government finds that the complaint is not well-founded the Government can subsidise him and give him money to bring a complaint before the Court of law and vindicate himself. But, what is the use of not sifting the question and not going into the complaints? On the contrary you are having a wrong approach. Instead of going into the matter complained against and just punishing the man who is complained against, you go the other way. First of all you go at the person who has made the complaint and tell him: "You clear yourself." It is an entirely wrong approach. I do not understand in a procedural law why you want to do something by a back door method. If you want another law, change the law of the country; change the Indian Penal Code. Have not you got the Press Act? What does the Press Act say? It says that if any person writes anything which brings into jeopardy peace and order, which offends against any section of the Press Act, he can be proceeded against. Then, what is the difficulty? So far as criminal law in England is concerned, that is exactly what Shri Tek Chand said. It is perfectly true that they can be proceeded against, but it relates to a private question. I hold that it is not a public matter in this sense that supposing a person in high authority takes certain bribes, he does not do it in discharge of his duties. It is only on account of his greed that he takes bribe. What I am submitting is not just by way of saying something technical. There is a ruling to this effect that discharge of public duty does not mean that a person should go against the various provisions laid down. If he offends them, then it is not in the discharge of his public duties. As a matter of fact, today corruption and bribery are so rampant that we are all ashamed that we have not been able to do anything during the last seven years. On the contrary, people say that it is increasing. I do not know how far this is correct. I have got the hope that when the new police people, I.P.S. and other young men of A.I.S. come in,—to my mind they are made of better stuff—there may be improvement. At the same time I do find that so far as the subordinate people—the *Patwari* and other—are concerned, nobody cares. The Government only want to go against the Press when high officers are involved. So far as Press is concerned this clause does not have a single word about Press in it. All the controversy is raised against Press. I am saying about the small man who does not get redress from any Government official if he complains. Where should he go? Now, in the mofussils there are many presses. They also complain against Sub-Inspectors, *Patwaris* and all by name.

They give in bold words that such and such a person has been bribed but the Government has not taken any action. It was said, the rules are there and nobody can bring a private complaint. I say, change all those rules. We made a great mistake when we, in the Constitution, also gave—I should say—very ample rights to the public servants. It was a wrong thing that we did. We should not have given them so much protection. We repent for our mistake. In Madras, five persons bring a complaint and the matter is enquired into departmentally. That is the right thing.

Therefore, I submit—I wish I had enough time to speak on the various matters—that when you are dealing with these high dignatories, even including Ministers, you ought to make a law which will not distinguish between this citizen and that citizen. If you confine your law to these four persons and Ministers, then provide that even Sessions Courts should try those cases as Sessions cases because only five persons are there. In my country I know that as a matter of fact Ministers are being defamed even more than other people are defamed. There is a good reason why you should include Ministers also. At the same time I do know that in many States there are Ministers who are corrupt and in some cases the files were prepared against them and proof taken. Those cases have not been brought to the Court. Why? Because, excepting our Central Government where there is no such difficulty, in other governments there are frictions. In every State Government, the Chief Minister belongs to one party and the other Ministers belong to the other party and if the Chief Minister wants to proceed against the other Minister his *Saltanat* will go away. So far as the Central Government is concerned, they may take the power of sanctioning prosecution against particular Ministers in the States so that those Ministers will not be able to escape scot-free. I would, therefore, submit that the law may be changed so that the Vice President, President, Governors, Rajpramukhs and if the House agrees the Ministers may be there, because I know that if the sanction is made, even if the Government wants the Minister is bound to go to file a complaint and he will be exposed. With regard to these public officials whose number is legion, how can the Sessions Court decide their cases? I do not want that the time of the Sessions Court should be wasted in these cases. Previously in another Bill the Home Minister entrusted the Sessions Judge to try all corruption cases and now he is giving the defamation cases also. In this way the Sessions Judges will not be allowed to do their normal work. Even now one crore of rupees will be wasted as copies etc. How can there be more Sessions Judges? Do you want to waste another crore of rupees? That will be taken from my pocket; from the tax-payer. I do not think you should bring the case against a *Patwari* or a *Chowkidar* to the Sessions Court and have a plethora of Sessions Judges to try those cases. After all the time they waste on them I know some complaint will come from the Home Minister again that the Sessions Judges are acquitting these people. There will be many acquittals. After all the Sessions Judges will have to decide according to law and if it is defective as I pointed out many times there will be many acquittals and again there will be an amendment of the Criminal Procedure Code. I, therefore, want that the Sessions trial should not be made very cheap. Sessions trial in the case of these 4 persons and the Ministers I can understand. I cannot extend the Sessions trial to the *Chowkidar*, *Patwari*, Constables and all of them.

Therefore, I submit, if you want to have a law have a law which does not discriminate between A and B. Have a law which will be accepted by the Supreme Court. If you want to have a law of this nature, discriminating between man and man, I am very much opposed to it, it is undemocratic and I would request the House to throw it out.

Dr. Katju: The speeches delivered have indicated some misapprehension on the part of the Members as to the object of this Bill. I have suffered from one great disadvantage, namely, a suspicion that I intend to protect public servants including Ministers in some degree and to create or make them into a sort of privileged class and to confer upon them all sorts of immunities. I should like to assure the House with all the sincerity that I possess, that it is not only far from the truth, far from reality, but it is exactly the opposite of what I am for.

Pandit Thakur Das Bhargava: We believe in your motives. Your motives are quite correct, but your methods are quite wrong.

Mr. Chairman: We should allow the hon. Minister to proceed undisturbed.

Dr. Jaisoorya (Medak): May I request him to speak a little more loudly; I can't hear him.

Dr. Katju: Will you please tell me what to do? I am shouting at the top of my voice.

The House is aware that this public complaint is to be made within six months and I tell you honestly that the goal which I have in view is that either the matter is taken into a Criminal Court—I shall tell you just now, how—or the man is dismissed. There is no half way house. I do not want that there should be wide-spread complaints by saying that the whole police is corrupt, the whole magistracy is corrupt or all ministers are Corrupt. That is a way of general vilification or general vituperation. There should be whispering campaigns against particular Ministers or public servants, who cares for poor *Patwaris*, It is the top people who are always in the whispering campaigns, newspaper articles, particularly insinuations. Because it is the printed word, the public newspaper carries great weight and if the same thing is repeated in newspapers—call them yellow Press or whatever you like; what is the good of taking note of them, they certainly circulate in each district headquarter and town in hundreds and thousands—people think that something is happening and nobody takes notice of it. I am most anxious that there should be some check not on the publication but on the public servant himself. Either he goes and has his character vindicated or he is dismissed from service. What is the picture I have in view? Assuming that the Bill is passed in this shape or in an allied shape, what will be the instructions that will be issued? I am talking of a public servant now. Supposing there is an article in a newspaper about a particular inspector of police or anyone else—I do not want to single out the police—what will be the procedure? The procedure will be that the higher authority will at once ask that man "What have you got to say about it?" Some one said when the question of compensation was being discussed on the lines of section 250, the man is not making a complaint and yet he is being asked to pay damages. But the procedure will be this. The higher authority will at once ask—that will be the first thing—"What have you got to say about it?" He reads it and sends it up saying "It is all absolute nonsense and everything of it is false." If he denies it, then there is the other person. So far as the Government of India is concerned, instructions will issue and advice will be given that the first thing will be to direct that man to file a private complaint. We do not want to make the public complaints very cheap. If he gives some reason and says "This thing was published in Madras, I am in Coimbatore and it will be difficult for me to go to Madras up and down"—because the private complainant has got to be present every time in the Court—and if there is some good cause, then the Government itself may sanction the filing of a public complaint by the Public Prosecutor. I quite agree that we should not make such cases very cheap. Government servants of the small grades, if they want to file, should be almost compelled to file complaints before the Magistrates, and if they do not file they are dismissed. Then, immediately there are two things. As soon as anything is published in a newspaper against any man—Minister or public servant—the machinery is set in motion, enquiry is made and the result of the enquiry is a firm declaration by the public servant that the allegations made against him are false, that he has not taken the bribe or whatever it is. Then he is asked to file a private complaint and he must carry out that order. If he does not carry out the order, then investigation against him is there. If he carries out the order, no harm is done. If he gives any reason why in that particular case he is unable to file a private complaint saying that it will be most tedious, it will be very difficult—suppose he is in the Railway Department and he was serving in Madras and has been transferred to Simla and he says that it will be very inconvenient for him to file a private complaint—then Government agrees that it will be a public complaint. I would prefer a Minister to file a private complaint before a Magistrate, but the complaint there was this. The journalists said that even for a private complaint they do not want to have anything to do with the Magistrates and the police, and the result will be that if a private complaint is filed, I would prefer to have the case tried by the Sessions Judge. I am somewhat astonished when you think that I am almost dying for the blood of the journalists and the newspaper people, and this is far from my mind. My hon. friend, Mr. Nayar, read out something from a British Act. If he will do me the honour of talking over the matter with me, we can have it settled and I have no objection whatsoever, namely, where the Public Prosecutor files a complaint, then we have some sort of a procedure: notice may issue to the accused and they might discuss the matter in chamber and then let him see about it. The picture I have in my mind is this. There is no idea whatever of prosecuting anyone who makes what you may call a verbal complaint. There is no idea, not even the remotest idea, of prosecuting anyone who goes to a Member of Parliament or who comes over to me and says "Have you heard this? One of your subordinates is taking bribes." The Criminal Procedure Code says and the I.P.C. says that you come there in good faith and you are entitled to complaint, nobody would ever dream of filing a complaint and taking this type of action. It is the newspapers which are circulated in different areas—two thousand, ten thousand or twenty thousand—and there the idea comes in ....

Pandit Thakur Das Bhargava: How are these assurances going to be carried out? Whatever we are hearing is very good and we are very happy that the hon. Minister has said these things, but these are not parts of the Criminal Procedure Code. How long will he be the Home Minister to carry these matters into practice?

Dr. Katju: Whether I am the Home Minister or not it does not matter, but the question is that it is the printed word which is at the bottom of it that counts.

Mr. Chairman: The Members want to bring to the notice of the hon. Home Minister that what he is saying is not in the printed words. How would these assurances be implemented?

Dr. Katju: I think that one of the hon. Members said here that we must think in a realistic fashion. In a theoretical fashion, you can pick holes in any statute, in any clause. The complaint which has been rife is the circulation, not of rumours, but of the printed word, and that is the mischief which we intend to tackle, and if my hon. friends want that the printed

[Dr. Katju]

word should be specified, I have no objection.

Pandit Thakur Das Bhargava: Kindly do it because that is the thing that we want.

Mr. Chairman: Let the hon. Member who suggested that it should not apply to slander but only to libel move that amendment.

Shri Tek Chand: I will do so.

Dr. Katju: I want to proceed in a very co-operative way and I do not approach this problem in a party spirit at all. We consider everything on merits.

Shri Sarangadhar Das: May I know what will be the attitude in the case of an allegation made from a public platform where there are thousands of people attending the meeting?

Dr. Katju: It is taken down in writing. We shall send it to him and the result is this.

As I said, the Government's present intention is to see to it that the normal procedure of a private complaint is resorted to in the utmost. It can be done by way of executive instructions. Secondly, the Public Prosecutor's business is resorted to only when the Government finds that there is a particular reason for that business—not to make it very cheap. Thirdly—this I emphasise specifically and it is not a joke—we find from enquiry that the public servant is guilty, in which case there would not be a prosecution of the libel-maker, but it will be a departmental enquiry or an enquiry started straight against the public servant himself. Something must be done: either you go against the man who is spreading false libel or you go against the public servant if the libel is correct. I am proceeding on the assumption that when a publisher publishes a libellous matter, he does so with a sense of responsibility. He makes some investigation. He is satisfied that the matter published is correct. Please remember the distinction between a specific libel and a general libel of a whole department. If it is against the whole department, it means nothing. But if you go against a specific person, it is different. Dr. Jaisoorya probably knows of the case in the British journal, *Truth*. It mentioned specific individuals who had made specific allegations against some persons and they fought. Similarly, if there is any allegation of a specific nature against a Minister or against anybody, the first enquiry is from the Minister concerned or from the public servant concerned. "What have you got to say. Is this right or wrong?" If he fumbles about it and if he gives an answer which is just shilly-shally, half-way, there is no question of prosecution of the libeller. It is the case of the prosecution or an enquiry into the conduct of the public servant and his dismissal. But if the denial is specific, absolutely clear, there is no question of an enquiry. Then, there is the case of a private complaint directing him to go and file a complaint. Of course, I am repeating the points. If there are any reasons why he should not himself go, then, it is a case of a complaint filed, and then comes Shri Venkataraman's amendment which he has moved, namely, that he first witness to be examined will be the complainant himself, not the Public Prosecutor but the public servant. He is not filing it because we do not want him to go over and over again and to be present at every hearing. He just leaves it there. He is examined on oath. He is cross-examined. The charge is framed. Then he may be re-examined. I wish to assure hon. Members that there is not the slightest desire on the part of the Government to shield this man. I have learnt this thing from so many years of experience. The public is so suspicious about these public servants. They say that these departmental enquiries are nothing and have no end. They say it is hush-hush. They want an open enquiry before the Court of Session or before a Magistrate where the man goes and says, "Well, I have not taken this bribe. The allegation is false." Then the cross-examination last for three or four days, and if the Court finds that the charge is wrong, then the public feels that the charge is wrong. Now, Shri N. C. Chatterjee has put some questions to me and I have answered them, and if there is any other question which he wants to put, I should like to answer them now.

Shri N. C. Chatterjee: I have given to the hon. Minister a series of questions. I would like him to look at No. 4 in the series. May we have a definite assurance about the time limit within which the public servant must be asked to clear up his character.

Dr. Katju: This time limit has already been provided because whatever is done will be done within six months. There is no question of going beyond six months. Please remember that the Public Prosecutor can only file the complaint within six months. The first requisition will be on the public servant himself. "You go and file your complaint. If you do not do it, then, the public complaint comes." Take this from me: People are thinking as if the public servants are happy over this Bill. My information is that 'they are most unhappy.

An Hon. Member: They are happy.

[MR. DEPUTY-SPEAKER *in the Chair*]

Dr. Katju: Now, my submission is that we are now devising a machinery the purpose of purifying the services, for the purpose of taking steps against the public servants offending,—either they be dismissed or they should be punished or sentenced to imprisonment. They should not take shelter under anything, and the people should not have room to say that it is all tardy, rag and filth.

Shri Bhagwat Jha Azad: What prevents the Government, even without this legislation, from directing the officer to go to a Court of Enquiry and prove that he is innocent? What prevents the Government, even now, from doing it?

Dr. Katju: I have made myself clear. I have said it four times that the ordinary procedure will be to ask the officer to go and file a private complaint. You must take it from me that this will be the instruction. It will only be in two percent cases—where the public servant concerned is not in India, or something happens—that a private complaint is almost a physical impossibility and so that the Public Prosecutor will file it. If the Public Prosecutor files it, then the first witness will be the public servant. He will have to go to the witness box.

श्री आर० डी० मिश्र : क्या आज तक किसी सरकारी अफसर से कहा गया कि तुम्हारे खिलाफ करप्शन के चार्जिज आये हैं तुम उनके खिलाफ कम्पलेंट दायर करो ।

Mr. Deputy-Speaker: Let the hon. Minister have his final say. How long can we go on questioning? The hon. Minister will kindly look at me and get along with his speech. There is a mode of asking questions, there is a mode for inviting a reply, etc.

Dr. Katju: The thing really is in a nut-shell. I take it now that there is practically unanimity about the four classes of people who are to be examined on Commission,—the Heads of States, etc.

Some Hon. Members: No, no.

Mr. Deputy-Speaker: Then, show it in your vote. Why do you say, 'No, no' here?

Shri R. D. Misra: On a point of information.

Mr. Deputy-Speaker: No information need be given. The hon. Minister will

[Mr. Deputy-Speaker]

kindly go on? Why should the hon. Minister sit down?

Dr. Katju: With all my modesty, Sir. I was about to say that the object of the Bill was that the doors of the Court of Law should be opened. Today, they are closed. Unless the doors are opened in one particular manner, it is no good. The object of the Bill is that the door of that Court should be opened by another manner also. Having opened the door, there is not the slightest change in procedure. It is not a question of there being any administrative law about it, or having copied it from what is called the continental procedures where public servants have got a special liberty, special privileges and all that. The procedure exactly remains the same. I really cannot understand when it is said that the Minister is being put in a privileged place, the public servant is being put in a privileged place. What is the privileged place? The procedure is exactly what it would be if a public servant were to file a complaint of his own. The only change that is made is that the Public Prosecutor, may, on the instruction of Government file a complaint. Then the procedure is, who is the first witness? The public servant complained against will be the first witness. What is the privilege that has been conferred? What is the immunity that has been conferred? It is not said that a public servant can defy the law or defy the Court or is allowed to refuse to appear as a witness. It is not said that the evidence that he has given, if it is found to be false, he cannot be punished for perjury, that he cannot be sent to jail. The whole thing is there. It is not said that any presumption of honesty should be made. It is not suggested that any presumption of honesty should be made in favour of any public servant; it is not suggested that the Court should presume that no bribe was taken; everything is open. If everything is open, then I do submit that this suggestion of privilege or immunity of a particular privileged class is baseless.

4 P.M.

In the Select Committee report, the recommendation was that in the case of public servants, the superior officer may also authorise the filing of a complaint. That has now been sought to be remedied. You have now the guarantee that Government will deal with every single matter carefully. You may presume that Government will never sanction or authorise the Public Prosecutor to file a complaint unless and until the materials are before them and on the denial of the public servant concerned, they will have complete satisfaction that the case *prima facie* is a false case. There again, as I said, I can only say that it will be much better and instructions will be issued to the effect that the public servant should be directed to file a complaint unless and until, because of his transfer or illness or because of many other things, it is not possible to do so. I repeat again: if the Public Prosecutor has filed a complaint, what is the change? What is the benefit to the public servant? There is no discrimination: none whatsoever.

During the general discussion, a question was raised. If the Government does it, what about payment of damages? Mr. Venkataraman has made it quite clear because you were pleased to put that question that a public servant may not be filing a complaint himself. But the Government will not make an order directing the making of the complaint unless and until they are satisfied on a declaration made by the public servant that the libel is a false libel. If the libel is well founded, if he says that he took Rs. 200 and so on, then there will be no prosecution. Therefore, it should not be unfair to ask him to make good any damage if it is found that the libel was wrong. It is on the basis of these facts that I really recommend to the House with a very clear and safe conscience to approve of the proposals made by me and also in the light of the amendments moved. I wish to say once again that if the Bill is accepted the suggestion made by Mr. Nayar about the provision in the English law, namely, a sort of preliminary enquiry in the Judge's chamber will be considered.

Shri Tek Chand: Just now the hon. Home Minister invited me to table an amendment.

I beg to move:

In page 7, lines 11 and 12, *after* "(Act XLV of 1860)" *insert* "(other than the offence of defamation by spoken words)".

Mr. Deputy-Speaker: Amendment moved:

In page 7, lines 11 and 12, *after* "(Act XLV of 1860)" *insert* "(other than the offence of defamation by spoken words)".

Dr. Katju: I have no objection if you make it clear......

Shri Venkataraman: Before you put my amendments to the vote of the House, I want to make one point clear. In my amendment No. 539, the words should be "....unless the Court of Sessions for reasons to be recorded, otherwise directs......"

Mr. Deputy-Speaker: All right. I shall now put amendment No. 538....

Shri R. D. Misra: My amendment, No. 290, be put first.

Mr. Deputy-Speaker: It is open to the Chair. I have taken the suggestion but I am not accepting it. Now, the question is...............

Shri Venkataraman: Shri Tek Chand's amendment is an amendment to the clause and it will come before my amendment.

Mr. Deputy-Speaker: I shall first put that amendment.

The question is:

In page 7, lines 11 and 12, *after* "(Act XLV of 1860)" *insert* "(other than the offence of defamation by spoken words)".

The motion was adopted.

Mr. Deputy-Speaker: I shall now put the other amendments, namely, 538 as it is, 539 with the further amendment by the addition of the words 'for reasons to be recorded' after the words 'Court of Sessions' and 540, as it is.

The question is:

In page 7, *for* line 35, *substitute* "Government concerned".

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In page 7, line 44, *for* "of warrant cases by Magistrates" *substitute* "by Magistrates of warrant cases instituted otherwise than on a police report and the person against whom the offence is alleged to have been committed shall, unless the Court of Session, for reasons to be recorded, otherwise directs, be examined as a witness for the prosecution."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In page 7, *after* line 44, *insert*:

"(5A) If in any case instituted under this section, the Court of Session by which the case is heard discharges or acquits all or any of the accused, and is of opinion that the accusation against them or any of them was false and either frivolous or vexatious, the Court of Session may, by its order of discharge or acquittal, direct the person against whom the offence was alleged to have been committed (other than the President, Vice-President or

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the Governor or Rajpramukh of a State) to show cause why he should not pay compensation to such accused or to each or any of such accused, when there are more than one.

(5B) The Court of Session shall record and consider any cause which may be shown by the person so directed and if it is satisfied that the accusation was false and either frivolous or vexatious, it may, for reasons to be recorded, direct that compensation to such amount, not exceeding one thousand rupees, as it may determine be paid by such person to the accused or to each or any of them.

(5C) All compensation awarded under sub-section (5B) may be recovered as if it were a fine.

(5D) No person who has been directed to pay compensation under sub-section (5B) shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made under this section:

Provided that any amount paid to an accused person under this section shall be taken into account in awarding compensation to such person in any subsequent civil suit relating to the same matter."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

In page 7, lines 14 and 15, *omit* "or a Minister, or any other public servant employed in connection with affairs of the Union or of a State."

The motion was negatived.

Mr. Deputy-Speaker: The other amendments Nos. 220, 265, 316, 432 and 470 are all barred because they are the same amendments

The question is:

In page 7, *omit* lines 29 to 35.

The motion was negatived.

Mr. Deputy-Speaker: Along with this, amendments Nos. 221, 267, 317 and 473 are barred.

Now, I shall put to the House the other amendments to clause 25.

The question is:

In page 7, *for* lines 8 to 49, *substitute*:

"198B. *Prosecution for defamation against public servants in respect of their conduct in the discharge of public functions.*—(1) Notwithstanding anything contained in section 198 of this Code, where—

(a) any newspaper, or book as defined in the Press and Registration of Books Act, 1867 (XXV of 1867) or

(b) any document,

whenever printed appears to the Central Government or to the State Government to contain any defamatory matter which harms or is intended to harm the reputation of the President, Vice-President, Governor or Rajpramukh or any Government servant employed in connection with the affairs of the Union or of a State, member of Parliament, member of State Legislature, member of any local authority, public servants employed in connection with the affairs of any local authority, that is to say any matter the publication of which is punishable under section 500 of the Indian Penal Code (Act XLV of 1860), the Central Government or the State Government may by notification in the Official Gazette stating the grounds of its opinion declare every copy of the issue of the newspaper containing such matter and every copy of such book or other document to be forfeited to Government and thereupon any police officer may seize the same wherever found in India and any Magistrate may by warrant authorise any police officer not below the rank of sub-inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

(2) For the purposes of sub-section (1), document includes also painting, drawing or photograph or other visible representation.

(3) Any person having any interest in any newspaper, book or other document or who is liable to be prosecuted for defamation under section 500 of the Indian Penal Code (Act XLV of 1860) for the publication of the same in respect of which an order of forfeiture has been made, may within two months from the date of such order apply to the High Court to set aside such order on the ground that the issue of the newspaper, or the book or other document, in respect of which the order was made did not contain any defamatory matter or that the imputation is true concerning such person and it has been published for the public good in order that the person concerned be dealt with according to law of the land. If the High Court is satisfied that the matter in dispute does not contain defamatory matter it may set aside the order of forfeiture or direct a Sessions Judge subordinate to it to inquire into the truth or falsehood of the allegations and after receipt of the report of the enquiry may set aside the order of forfeiture.

If the order of forfeiture is not set aside or if the person or persons responsible for the publication do not apply within two months of the order of forfeiture, the Central Government or State Government may sanction the prosecution of the offender."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, lines 13 to 15, omit "or the Vice-President, or the Governor or Rajpramukh of a State, or a Minister, or any other public servant employed in connection with the affairs of the Union or of a State."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, line 14, *omit* "or a Minister".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, line 14, *after* "or a Minister" *insert* "or a Deputy Minister, or a Minister of State, or a Parliamentary Secretary, or a Speaker or a Deputy Speaker of the State Assembly or the House of the People or the Vice-Chairman of the Council of States, or Chief Whips or Deputy Chief Whips of the party in power in any legislature, or office-bearers of local bodies or Vice-Chancellor or Treasurer of a University".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, lines 14 and 15, omit "or any other public servant employed in connection with the affairs of the Union or of a State".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, lines 14 and 15, *omit* "or any other public servant employed in connection with the affairs".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, line 19, *for* "Public Prosecutor" *substitute* "Attorney-General of India or the Advocate-General of a State as the case may be."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, *after* line 19, *insert*:

"(1A) The person against whom such offence has been committed shall be a necessary witness for the prosecution."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, *for lines* 24 to 35, *substitute*:

"(3) No complaint under sub-section (1) shall be made by the Attorney-General of India or the Advocate-General of a State except with the previous sanction of the Council of Ministers of the Union or of the State as the case may be."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, *omit* lines 33 to 35.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, line 37, *for* "six" *substitute* "three".

The motion was negatived.

Mr. Deputy-Speaker The question is:

In page 7, line 44, add at the end as provided for cases instituted otherwise than on police report under clause (b) of section 251".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, line 44, *add*:

"Provided that if the accused has not had an opportunity to cross-examine the person defamed, the Sessions Judge shall forthwith aquit the accused.

(5A) When any case of which the Court of Session takes cognizance under sub-section (1) does not result in conviction of the accused, or where a conviction in any such case is set aside by a superior Court, the Court of Session or the superior Court, as the case may be, shall award to the accused such compensation, not below one thousand rupees, as such Court may deem just and adequate in view of the expenses and particularly the harassment and trouble suffered by the accused."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, *after* line 49 *add*:

"Provided that notwithstanding anything contained in section 198, no Court shall refuse to take cognizance of an offence falling under Chapter XXI of the Indian Penal Code (Act XLV of 1860) if the person filing a complaint produces a written authority, verified before a Magistrate or a Gazetted Officer, containing a statement to the effect that the aggrieved person has been informed of the allegations on which the complaint is formed and that he has authorised such person to file a complaint in a competent Criminal Court on his behalf."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, *omit* lines 29 to 32.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, line 44, *add* at the end:

"in respect of those instituted otherwise than on a police report"

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, *omit* line 48 and 49.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 7, lines 17 and 18, *for* "without the accused being committed" *substitute* "after the accused has been committed".

The motion was negatived.

Mr. Deputy-Speaker: Now, I shall put all the amendments to clause 97.

The question is:

In page 27,

(i) line 12, *for* "or any Magistrate" *substitute* "District Magistrate, Presidency Magistrate or Magistrate of the first class"; and

(ii) *for* line 20, *substitute*:

"(c) in sub-section (2), for the words 'or Presidency Magistrate' the words 'Presidency Magistrate or Magistrate of the first class' shall be substituted."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 27, line 12, *for* "any Magistrate" *substitute* "any District Magistrate, Presidency Magistrate or Sub-Divisional Magistrate".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 27, *omit* lines 14 to 19.

The motion was negatived.

Mr. Deputy-Speaker: The question is

In page 27, lines 17 and 18, *omit* "or the Vice-President or the Governor or Rajpramukh of a State".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 27, *for* line 20, *substitute*: "(c) in sub-section (2), *for* the words 'or Presidency Magistrate' the words 'Presidency Magistrate or Sub-Divisional Magistrate' shall be substituted."

The motion was negatived.

Mr. Deputy-Speaker: I shall now put to the House all amendments to clause 114.

The question is:

In page 31, lines 10 to 14, *omit* "or a Minister or any other public servant employed in connection with the affairs of the Union or of a State".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 31, lines 27 to 31, *omit* "or a Minister or any other public servant employed in connection with the affairs of the Union or of a State".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 32 lines 15 to 19, *omit* "or a Minister or any other public servant employed in connection with the affairs of the Union or of a State".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 33,

(i) line 1, *after* "sections" *insert*:

"121, 122, 123, 124, 125, 126, 127, 128, 129, 130"; and

(ii) line 2, *after* "165" *insert*:

"166, 167, 168, 169, 312, 313, 314, 315, 316, 384, 385, 386, 387, 388, 389, 417, 418, 493, and 498'.

The motion was negatived.

Mr. Deputy-Speaker: The question is:

In page 33, *after* line 19 *add*:

"(e) in column 4 in the entries relating to sections in which the punishment of imprisonment does not exceed three years the words 'summons', otherwise 'warrant' shall be substituted for the existing entries.

(f) in column 5 in the entries relating to offences punishable with imprisonment not exceeding three years the words 'Bailable' otherwise 'Non-bailable' shall be substituted for the existing entries.

(g) in column 8 in the entries relating to offences the following entries shall be substituted for the existing entries:—

(a) if the punishment does not exceed three months 'any Magistrate'

(b) if the punishment exceeds three months but does not exceed one year—'Magistrate of first or second class'

(c) if the punishment exceeds one year but does not exceed three years—'Magistrate of the first class'

(d) if the punishment exceeds three years but does not exceed seven years—'Magistrate of the first class specially empowered under section 30 of the Code'

(e) if the punishment exceeds seven years but does not exceed ten years—'Court of Assistant Sessions Judge'

(f) if the punishment exceeds ten years—'Court of Sessions Judge or Additional Sessions Judge'."

The motion was negatived.

Mr. Deputy-Speaker: The question is.

"That clause 25, as amended, stand part of the Bill."

The Lok Sabha divided: Ayes 172; Noes 28.

Division No. 4] **YES** **[4-10 P.M.**

Achal Singh, Seth
Achint Ram, Lala
Achuthan, Shri
Agarwal, Shri S. N.
Agrawal, Shir M. L.
Alagesan, Shri
Altekar, Shri
Asthana, Shri
Azad, Maulan
Azad, Shri Bhagwat Jha
Badan Singh, Ch.
Ballasubramaniam, Shri
Balmiki, Shri
Barman, Shri
Barupal, Shri P. L.
Basappa, Shri
Bhagat, Shri B. R.
Bhargava, Pandit M. B
Bhargava, Pandit Thakur Das
Bhartiya Shri S. R.
Bheekha Bhai, Shri
Bidari, Shri
Birbal Singh, Shri
Brajeshwar Prasad, Shri
Chanda, Shri Anil K.
Charak, Th. Lakshman Singh
Chatterjee, Dr. Susilranjan
Chaturvedi, Shri
Chaudhary, Shri C. I.
Chetiar, Shri Nagappa

Chettiar, Shri T. S. A.
Chudhuri, Shri M. Shaffee
Dabhi, Shri
Damar Shri
Das, Shri K. K.
Das, Shri N. T.
Das, Shri Ram Dhani
Datar, Shri
Desai, Shri K. K.
Desai, Shri K. N.
Deshmukh, Shri K. G.
Deshpande, Shri G. H.
Dholakia, Shri
Dhusiya, Shri
Dube, Shri Mulchand
Dube, Shri U. S.
Dubey, Shri R. G.
Dutt, Shri A. K.
Eacharan, Shri I.
Ebenezer, Dr.
Fotedar, Pandit
Gadgil, Shri
Gandhi, Shri Feroze
Gandhi, Shri M. M.
Ghose, Shri S. M.
Gounder, Shri K. P.
Gounder, Shri K. S.
Govind Das, Seth
Guha, Shri A. C.
Gupta, Shri Badshah
Hasda, Shri
Hembrom, Shri
Hyder Hussin, Ch.
Jagjivan Ram, Shri
Jain, Shri N. S.
Jajware, Shri
Jayashri, Shrimati
Jethan, Shri
Jhunjhunwala, Shri
Joshi, Shri Jethalal
Joshi, Shri Krishnacharya
Joshi, Shri Liladhar
Joshi, Shri M. D.
Joshi, Shri N. L.
Joshi, Shrimati Subhadra
Kajrolkar, Shri
Kanungo, Shri
Keasliwal, Shri
Katham, Shri
Katju, Dr.
Keshavaiengar, Shri
Keskar, Dr.
Khedkar, Shri G. B.
Khongmen, Shrimati
Kirolikar, Shri
Kolay, Shri
Krishna, Shri M. R.
Kureel, Shri P. L.
Majithia, Sardar
Malaviya, Shri K. D.
Malliah, Shri U. S.
Malvia, Shri B. N.
Malviya, Pandit C. N.
Mandal, Dr. P.
Masuriya Din, Shri
Mehta, Shri B. G.
Misra, Shri B. N.
Misra, Shri R. D.
Mohd, Akbar, Sofi
Mohiuddin, Shri
Morarka, Shri
Mukne, Shri Y. M.
Murli Manohar, Shri
Nanda, Shri
Narasimhan, Shri C. R.
Natawadkar, Shri
Nathwani, Shri N. P.
Nehru, Shri Jawaharlal
Nehru, Shrimati Uma
Pannalal, Shri
Parikh, Shri S. G.
Pataskar, Shri
Patel, Shri B. K.
Patel, Shri Rajeshwar
Patel, Shrimati Maniben
Patil, Shri Shankargauda
Pawar, Shri V. P.
Raghubir Sahai, Shri
Raghunath Singh, Shri
Raj Bahadur, Shri
Ram Dass, Shri
Ram Saran, Shri
Ramaswamy, Shri P.
Ramaswamy, Shri S. V.
Ranbir Singh, Ch.
Rane, Shri.
Rup Narain, Shri
Sahu, Shri Bhagbat
Saigal, Sardar A. S.
Saksena, Shri Mohanlal
Samanta, Shri S. C.
Sankarapandian, Shri
Satish Chandra, Shri
Sen, Shri P. G.
Sen, Shrimati Sushama
Sewal, Shri A. R.
Shah, Shri C. C.
Shahnawaz Khan, Shri
Sharma, Pandit Balkrishna
Sharma, Pandit K. C.
Sharma, Shri D. C.
Sharma, Shri K. R.
Sharma, Shri R. C.
Siddananjappa, Shri
Singh, Shri D. N.
Singh, Shri L. Jogeswar
Singh, Shri M. N.
Sinha, Shri G. P.
Sinha, Shri Jhulan
Sinha, Shri Nageshwar Prasad
Sinha, Shri Satya Narayan
Snatak, Shri
Somana, Shri N.
Subrahmanyam, Shri T.
Sunder Lall, Shri
Suriya Prashad, Shri
Swaminadhan, Shrimati Ammu
Tandan, Shri
Tek Chand, Shri
Telkikar, Shri
Thimmaiah, Shri
Thomas, Shri A. M.
Tivary, Shri V. N.
Tiwari, Pandit B. L.
Tripathi, Shri V. D.
Tyagi, Shri
Upadhyaya, Shri Shiva Dayal
Vaishya, Shri M. B.
Verma, Shri B. B.
Venkatarman, Shri
Vidyalankar, Shri A. N.
Vyas, Shri Radhelal

NOES

Amjad Ali, Shri
Chatterjea, Shri Tushar
Chatterjee, Shri N. C.
Chaudhri, Shri T. K.
Das, Shri Sarangadhar
Dasaratha Deb, Shri.
Deo, Shri R. N. S.
Deshpande, Shri V. G.
Gopalan, Shri A.K.
Gupta, Shri Sadhan
Hukam Singh, Sardar
Jaisoorya, Dr.
Kripalani, Acharya
Kripalani, Shrimati Sucheta
Krishnaswami, Dr.
Mehta, Shri Asoka
More, Shri S. S.
Mukerjee, Shri H. N.
Muniswamy, Shri
Mushar, Shri
Nayar, Shri V. P.
Raghavachari, Shri
Rao, Shri P. Subba
Rao, Shri T. B. Vittal
Reddi, Shri Ramachandra
Shakuntala, Shrimati
Velayudhan, Shri
Waghmare, Shri

The motion was adopted.

Clause 25, as amended, was added to the Bill.

Clauses 97 and 114 were added to the Bill.

Clauses 26 to 38.

Mr. Deputy-Speaker: The House will now proceed with the next group of clauses, namely clauses 26 to 38, for which five hours have been allotted. We are starting the discussion on them now at 4-30 P.M.

Hon. Members may kindly hand over at the Table here, numbers of those amendments which they want to move, and I will place them before the House later. Meanwhile, we shall take up the consideration of these clauses.

Shri Raghavachari: May I make one submission? In view of the fact that Shri Tek Chand's amendment has been passed, some consequential amendments will have to be made in the Schedule namely clause 114 given on page 31, which reads at present only as defamation.

Shri Venkataraman: So far as the Schedule is concerned, some consequential amendments will have to be made, because we have just now accepted an amendment moved by Shri Tek Chand, and I think they may be made in the third reading.

Mr. Deputy-Speaker: This is what Shri Raghavachari has also raised. These are all consequential amendments of a formal nature, and they will be carried out in the third reading. In the meanwhile, before we go to the third reading, hon. Members, or any Member of Government, will kindly make out a list of all those amendments, and move them formally at the third reading stage.

Shri Sadhan Gupta: Before I deal with clauses 26 to 38 which are involved in this group, I want to draw the Home Minister's attention to an amendment which I have proposed introducing a new clause. Now, two distinct procedures are being created for enquiries for the purpose of commitment. One provides that there will be a particular kind of enquiry where the case is launched by means other than a police report, and the other procedure provides that in the case of a case started on a police report, another kind of enquiry is to be instituted.

Mr. Deputy-Speaker: The hon. Member will kindly resume his seat. I want to make a suggestion to the House. I find that to this group of clauses also, there are amendments seeking to introduce new clauses. I have already stated on a prior occasion that regarding new clauses also, hon. Members will have to say whatever they want to say—that is, those who have tabled them—as to how a new clause is only a consequential one arising out of the amendments already sought to be introduced in the Bill so that once for all at the end of it I can make up my mind and then place it before the House or give my ruling. No separate arguments will be allowed either with regard to the clauses or to the amendments or to the new clauses. Hon. Member won't have another opportunity. Whoever wants to press before the House the need for any amendment, may refer to that clause also and state the grounds as to how it flows as a natural consequence from any of the amendments in the Bill. That will dispose of it and I can decide one way or the other. To enable the Chair to come to a conclusion, hon. Members who have tabled these amendments relating to new clauses may, if possible, submit memoranda at the Table for the consideration of the Speaker.

Shri R. D. Misra: Should we write out the reasons and submit the same?

Mr. Deputy-Speaker: Yes, the grounds on which hon. Members want to support the insertion of a particular clause.

Shri R. D. Misra: My amendment is a simple one. It depends upon....

Mr. Deputy-Speaker: No, no. If the hon. Member gets a chance, he can speak. If he does not get a chance or if he gets a chance and wants all the points to be noticed, then he can write it out and submit it to the Table Office.

Shri Sadhan Gupta: I was actually trying to justify the new clause which I am proposing to insert. As I stated, there are two kinds of commitment procedure prescribed in the amending Bill, one when it is started on a police report and the second. when it is started by means other than a police report.

Shri Datar: May I just point out one circumstance? I have tabled amendments Nos. 545 to 550. The object is to allow cross-examination. You will find that in clause 29 it is stated that the accused will have no right of cross-examination. That right is specially conceded.

Mr. Deputy-Speaker: Why not I call upon the hon. Minister to speak first. to avoid unnecessary discussion over other matters? As soon as I place a group of clauses before the House for discussion, the Hon. Minister, if he has tabled any amendments of his own accord in view of the various amendments that have been tabled by the Opposition or by any other Member, may come forward with a statement as to how far he is prepared to go with respect to any one of these amendments. That will clear up the issue and cut short so much of discussion. I will request Mr. Sadhan Gupta to resume his seat and the hon. Minister may say what he has to say regarding these amendments. Thereafter, the discussion may go on.

Shri Datar: Shall I say what I have to say after he finishes?

Mr. Deputy-Speaker: No, no. Even now the hon. Minister may say how far he is prepared to accept these amendments or not accept these amendments in which case it will ease the situation.

Shri Datar: I should like to point out one important circumstance in respect of which Government have proposed a change to clause 29. You will find in clause 29 (5):

> "The accused shall not be at liberty to put questions, to any such witness but nothing in this section shall be deemed to preclude the Magistrate from putting such questions to the witness as he thinks necessary".

The object was to shorten the commitment proceedings as much as possible. For that purpose, it was considered necessary that the right of cross-examination should not be specifically given to the accused. But it was even there made clear that it would be open to the accused to suggest some questions to the Court and the Court might put them. Now, that was considered as objectionable and, therefore, when discussion went on, it was found that the taking away of this right of cross-examination was objected to by many Members of this House on both sides. Therefore, after considering this question, Government now propose to give this specific right and they are making certain consequential changes.

Pandit Munishwar Datt Upadhyay (Pratapgarh Distt.—East): But that right is always open to the Magistrate.

Shri Datar: It is open to the Magistrate. In order to leave no scope for any complaint or objection on that score, that the right of cross-examination has been taken away, I am proposing, with your permission, amendments Nos. 545 to 550. They all proceed on this and consequential changes have been made in respect of taking the statement etc. We have used the word 'evidence'. Then you will find that in amendment No. 546, we have

[Shri Datar]

specifically stated: "*for* lines 14 to 17 *substitute* 'the accused shall be at liberty to cross-examine the witnesses examined under sub-section (4), and in such case, the prosecutor may re-examine them". So this is the object of these amendments and the discussion might proceed on this basis.

Mr. Deputy-Speaker: The existing procedure is restored?

Shri Datar: The existing procedure is partly restored, not completely restored.

Mr. Deputy-Speaker: In what part? Today in the preliminary inquiry, witnesses are examined by the prosecution. How is it partly restored.

Shri Datar: It is partly restored in this sense that in respect of witnesses whose statements have been recorded under section 164, they may not be examined before the committing Magistrate, but the committing Magistrate will examine certain witnesses who were more or less eye-witnesses and certain other witnesses who, in his opinion, ought to be examined. In all such cases, we have put the expression, that his statement should be recorded.

Mr. Deputy-Speaker: Whichever witnesses are brought before the Magistrate, those witnesses can be cross-examined by the accused.

Shri Datar: All the witnesses who are examined before the committing Magistrate will be cross-examined by the defence. Now, this right had not been given fully. So you will find that the original commitment proceeding has not been restored completely. What has been done is that it has been introduced only to a certain extent.

Mr. Deputy-Speaker: Formal witnesses—their statements alone may be taken and they need not be brought before the preliminary inquiry.

Shri Datar: Also those whose statements have been recorded under section 164—they need not be made to appear before the committing Court because their statements are there.

Mr. Deputy-Speaker: Is it obligatory on the committing Magistrate to examine eye-witnesses?

Shri Datar: Generally, so far as eye-witnesses are concerned, he will have to.

Shri Raghavachari: No.

Shri Venkataraman: Yes, because it says 'witnesses to the actual commission of the offence'.

Shri Datar: I would invite your attention to sub-clause (4). 'The Magistrate shall then proceed to record the statements of the persons'—the word 'statements' was purposely put in—'if any, who may be produced by the prosecution as witnesses to the actual commission of the offence alleged'. These are the eye-witnesses.

Mr. Deputy-Speaker: Then for them cross-examination is allowed?

Shri Datar: For them formerly cross-examination was not allowed. According to the Joint Select Committee's recommendations, cross-examination was not allowed. It was treated as a statement. Their statement was to be recorded. There was no right of cross-examination, but the Court had a right to put such questions as it liked.

Mr. Deputy-Speaker: To these people alone.

Shri Datar: Yes. In addition to these people, it was open also to the committing Court to call any other witnesses and to have them examined before it. That appears in sub-clause (4) where it is stated:

> "...if the Magistrate is of opinion that it is necessary in the interests of justice to record the statements of any one or more of

other witnesses for the prosecution, he may record such statements also."

Mr. Deputy-Speaker: That is, every witnesses who is brought before the Sessions Court must be examined by the committing Magistrate.

An Hon. Member: No, no.

Shri Datar: So far as eye-witnesses are concerned.

Mr. Deputy-Speaker: They must be produced, whether for making statement or for examination.

Shri Datar: Now it would be a part of a regular judicial enquiry

Mr. Deputy-Speaker: Can any witnesses be brought before the Sessions Court whose statement or evidence was not taken before the committing Magistrate at all?

Shri Datar: Yes; that can be done.

Mr. Deputy-Speaker: Let us divide the witnesses into groups. Now, in the existing Act no witnesses can be brought before the Sessions Court for prosecution who has not been examined before the committing Magistrate.

Shri Datar: No, Sir; in exceptional cases it can be done.

Mr. Deputy-Speaker: I am not talking of exceptional cases where they could not have been brought. Normally all witnesses must appear before the committing Magistrate. Now, so far as the present amendment is concerned, what is the difference?

Shri Datar: So far as this clause 29 is concerned, the scheme was that in respect of witnesses whose statements were recorded under section 164, they need not be produced before the Court.

Mr. Deputy-Speaker: When some Magistrate records it under section 164, the accused can be present.

Shri Datar: He has to be present.

Pandit Thakur Das Bhargava: This has never happened. Under section 164, the accused is never present.

Shri Datar: We have made a case.

Mr. Deputy-Speaker: Is that privilege given here?

An Hon. Member: No, no.

Mr. Deputy-Speaker: Therefore under section 164, statements may be made before any Magistrate, not necessarily before a committing magistrate. Now, when the witness is brought before a committing Magistrate, he gives a statement and then the accused must be present.

Shri Datar: Naturally, before the committing Magistrate the accused would be present.

Mr. Deputy-Speaker: That is, before the committing Magistrate there are two sets of statements—one statement where the accused is present and can argue, and the other set where the committing Magistrate examines the eye-witnesses, or witnesses to the occurrence—in which case instead of merely giving an opportunity for the accused to hear what was said and then taking part in a submission ultimately, whether even without cross-examination on the statements there is a case for his committing to the Sessions Court or not, the benefit that is now conferred is that of recording the eye-witnesses there and then if the accused wants to cross-examine or re-examine them he has a right to do so to the extent of eye-witnesses. The original committing Magistrate's enquiry stands with respect to other witnesses, whose statements may be taken before the committing Magistrate.

Shri Datar: Such other witnesses as the Court desires to be examined.

Mr. Deputy-Speaker: He will have a right to examine those witnesses who are intimately connected with the occurrence, that is one group. The other group is where he takes the statements alone. The third group is where he does not take statements

[Mr. Deputy-Speaker]

under section 164, but he takes before the accused is brought before him. The fourth group is, some people in emergent cases may be brought as witnesses straight before the Sessions Court Judge.

Shri Raghavachari: It is always open to the investigating officer to choose witnesses whom he would produce before the Magistrate. The Magistrate shall then proceed to record the evidence of those who may be produced before him as prosecution witness. No doubt, it is open to the Magistrate to call for any other witness.

Mr. Deputy-Speaker: The Magistrate cannot compel the police to go about getting all and sundry from the universe. That is all what it means. Whoever is a witness of the occurence, if he is produced, he can be given a right of cross-examination. That does not mean that the Government can withhold them and then produce them straight or bring them for a statement straight before the Sessions Court.

Shri Raghavachari: The Investigating Officer can examine everybody under section 164.

Pandit Thakur Das Bhargava: Supposing there are two witnesses: one may be produced under section 164 before a third-Class Magistrate and the other before a Second-Class Magistrate. No evidence is actually there before the committing Court. Sir, as you were pleased to enquire about witnesses, now every Court has a right to call any witness under section 540. Now, that right has been taken away and the Court cannot call any witness under section 540.

Shri Datar: I may point out that at this stage, it is not necessary to go into the merits of the case. What is necessary is to know the procedure we have to follow.

Mr. Deputy-Speaker: From the statement of the hon. Minister I only wanted to know, that exactly is the modification. I only wanted to make it clear.

Shri Dabhi: I want to know whether the proviso to sub-clause (4) is to remain?

Shri N. S Jain: Yes; it remains.

Shri Dabhi: If that remains, then it is useless.

Shri Datar: This is what we have accepted at present.

Mr. Deputy-Speaker: Only one thing more. Now, statements of the eye-witnesses will be taken under 164 so as to bind them to their statements in the earliest possible opportunity. This opportunity given to the accused will practically be useless if a statement under section 164 is taken and with respect to every eye-witness statement under section 164 will be taken. Therefore some modification may be necessary.

Shri Datar: I shall consider it. Let us hear the arguments.

Shri Sadhan Gupta: I was submitting, Sir, about my amendments. As I was saying, two types of commitment procedure have been provided in this Bill, one under section 207A and the other under section 207. But, what the draftsmen of the Bill have failed to see is that there is a third commitment procedure possible under section 478. Under section 478, a Civil or Revenue Court, when some offence is committed before them, or when they come to know of an offence in the course of judicial proceedings, may straightaway commit it to the Court of Sessions. Supposing there is a very gross forgery of a valuable security in the course of civil proceedings, a Civil Court or the Revenue Court, without sending the case to a Magistrate can conduct the enquiry themselves and make a commitment to the Sessions Judge or to the High Court. Now, it is provided by sub-section (2) of section 478 that in such cases the Civil Court would follow the provisions of Chapter 18. What the Government have failed to see is that there is no longer one provision in that Chapter.

[SHRIMATI KHONGMEN *in the Chair.*]

There are now two provisions, one for police reports and another provision for reports other than plice reports. Now, what is the procedure that the Civil Court is to follow in conducting an enquiry? Is it the procedure prescribed for a case on police report, or is it the procedure prescribed for cases other than police reports? Therefore, by my new clause 89-A I have sought to amend section 478, sub-section (2) and instead of saying that the Civil Court will follow the procedure prescribed by Chapter 18, I have sought to lay down that it will follow the procedure prescribed by section 208 to 220 of Chapter 18 which is really a procedure for cases started on reports other than police reports. I want to know whether the hon. Home Minister is willing to accept the amendment, because I think that without this amendment, section 478 becomes illogical and meaningless. Therefore, I want to know if the hon. Home Minister will accept the amendment. Of course, I would ask him not to be terrified because the amendment comes from a communist.

Shri Venkataraman: Is it also red?

Shri Sadhan Gupta: It is not red; it is absolutely white and in this instance, it comes from a lawyer of India and a barrister of England.

Shri Datar: Which is the amendment that the hon. Member is referring to?

Shri Sadhan Gupta: It is amendment No. 521 in list No. 18. The hon. Home Minister can take his time to consider it, and now I will go over to other matters.

Before proceeding to the most controversial clauses in this group, I shall refer to a few other clauses which are of some importance but not of that importance which attaches to clauses 29 and 35. I am referring to clauses 26 to 28, where certain new provisions have been made regarding cases which are to be instituted on complaint. It is provided now that when a complainant proceeds on a petition, it is not only he that will be examined but also the witnesses whom he can produce in Court and their affirmation can be taken down. I have all the time been pleading for the accused, but this time at least I will plead for the *bona fide* complainant. If a complainant takes his witnesses to the Court and if they record the statements not only of the complainant but also of the witnesses, at once the comment will be that the witnesses must be interested witnesses; otherwise, why should they take all this trouble? If the complainant does not take the witnesses to the court, then the comment will be "Why did you not take the witnesses to the Court and have their statements recorded? Your evidence is an afterthought." That is the position in which a *bona fide* complainant is being driven to. Therefore. I would oppose clauses 26 to 28.

In clause 28, there is another provision that the complainant will be required to submit a list of witnesses and until he submits that list, the summons or warrant will not issue. That may be a very good provision, but certain exceptions must be made and they should be left to the discretion of the Court, because there may be complicated cases when a complete list of witnesses cannot be given at once, and so I have proposed an amendment, No. 476, where it is provided that in proper cases the Magistrate can permit the complainant to add to his list but provided that the omission of the complainant was such that in spite of exercise of due care and diligence it was impossible for him not to make that omission. That is the amendment I propose to clause 28 so as to put it on a rational basis.

In other amendment I propose that if you must have the statements of witnesses recorded, then it is but

[Shri Sadhan Gupta]

fair when you are giving notice to the accused, you should give him not only the petition of the complainant, but also the statements of the complainant and the witnesses recorded under the amended section 200. I would request the hon. Home Minister to give his most careful consideration to these amendments also.

I come to the clauses which have greatly agitated us and a large section of the House—the clauses regarding the new commitment procedure and the new warrant procedure. These clauses, of which, of course, clause 29 and 35 are the key stone, carry forward the pageant of the reactionary provisions which have impressed their stamp all over the Bill. These clauses are supreme examples of rights of defence having been sacrificed at the altar of the whims of executive and how executive power has been made supreme and has been more and more enhanced in the matter of administration of justice. As an instance of the latter case, we find that in clause 34 of the Bill, section 250 has been modified to raise the power of Magistrates to award compensation upto one-half of the amount of fine. We know that the power to levy fines, which is enjoyed by the Magistrates today, has been increased by this Bill. Today a Magistrate who can impose a fine of Rs. 1,000 only will be able to impose a fine of Rs. 2,000. That means that a Magistrate who has no civil experience, who has no experience of recording evidence and so forth, will be able to burden a complainant with a compensation upto Rs. 1000, in a summary manner without giving any opportunity of showing cause. In Calcutta, there happens to be an original side of the High Court and there happens to be a Small Cause Court. In cases involving up to the value of Rs. 1,000 the Small Cause Court has exclusive jurisdiction. Above Rs. 1,000 the Small Cause Court is not trusted with exclusive jurisdiction. The original side of the High Court has got concurrent jurisdiction with the Small Cause Court. The Small Cause Court usually consists of Judges with quite a lot of civil experience. Even they have only the power up to Rs. 1,000, and today the Magistrate, who may only be exercising judicial power for two or three years and only exercising criminal jurisdiction at that, has been allowed to levy, without proper hearing, a compensation up to Rs. 1,000.

Mr. Chairman: How much more time does the hon. Member expect to take?

Shri Sadhan Gupta: I will take quite a lot of time.

Shri T. B. Vittal Rao (Khammam): There is no quorum in the House now.

ANDHRA STATE LEGISLATURE (DELGATION OF POWERS) BILL

Mr. Chairman: We have got an other piece of business in the agenda to be finished today. That is the Andhra State Legislature (Delegation of Powers) Bill.

Shri V. G. Deshpande (Guna): There is no quorum.

The Minister of Home Affairs and States (Dr. Katju): I beg to move for leave......

Shri V. G. Deshpande: There is no quorum. What is your ruling? No business can go on in the absence of quorum.

Pandit Thakur Das Bhargava (Gurgaon): Unless there is quorum, no business can go on.

[MR. DEPUTY-SPEAKER *in the Chair*]

Mr. Deputy-Speaker: It is five o'clock. Yes, Dr. Katju.

Dr. Katju: I beg to move for leave to introduce a Bill to confer on the President the power of the Andhra

State Legislature to make laws.

Mr. Deputy-Speaker: Motion moved:

> "That leave be granted to introduce a Bill to confer on the President the power of the Andhra State Legislature to make laws."

Shri A. K. Gopalan (Cannanore): Though it is not usual to oppose a Bill at the very introduction, I may be allowed to take this opportunity to oppose this Bill. I do not want to go into the detail about the reasons. It was only a week ago that we discussed the proclamation and the power was placed in Parliament. Now, this Bill seeks to take the power of the Parliament and place it in the hands of the executive. So, it is undemocratic, unprincipled. The Parliament is sitting today and the power of legislation must be vested in Parliament. It must not be taken away. It is not the first time. There was one precedent which we allowed. This is the second time, and I oppose the Bill, and I say that taking away the power of the Legislature and vesting it in the hands of the executive is undemocratic, unwarranted. So, I oppose the Bill at the very introduction stage.

Dr. Katju: My hon. friend is not familiar evidently with the provisions of the Constitution in this regard.

Shri A. K. Gopalan: I know: articles 356 and 357.

Dr. Katju: When the President assumes power to himself, something has got to be done about the law-making authority. The reason why I am taking this expeditious action is that there are seven Ordinances which were issued by the Andhra Government. Those Ordinances are to expire, I believe, somewhere about the 10th of December. If the Andhra Government had continued, then that State Legislature would have been asked to do that. These are very important measures, and therefore, this thing is being brought here so that Parliament may authorise the President to enact these.

Shri T. B. Vittal Rao (Khammam): There is a taxation measure which was introduced through Ordinance. That also will come under this.

Mr. Deputy-Speaker: The question is:

> "That leave be granted to introduce a Bill to confer on the President the power of the Andhra State Legislature to make laws."

The motion was adopted.

Dr. Katju: I introduce the Bill.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL—*Contd.*

Clauses 26 to 38

Mr. Deputy-Speaker: Before the House adjourns, I wish to announce that the following amendments have been intimated by the Members to be moved subject to their admissibility. The hon. Members may come fully prepared regarding these amendments.

Clause 26: amendment No. 111;

Clause 28: amendments Nos. 476, 441, 113 and 544;

Clause 29: amendments Nos. 390, 477, 319, 502, 320, 503, 120, 60, 121, 268, 504, 573, 505, 123; 506, 269, 124, 270, 321, 6, 125, 126, 507, 298, 7, 61, 8, 62, 227, 508, 299, 509, 127, 128, 510, 129, 27, 63, 130, 511, 512, 513, 514, 515, 131, 516, 517, 132, 323, 518, 300, 324 and 28: also, 545, 546, 547, 548, 549 and 550;

Clause 30: amendments Nos. 551, and 395;

Clause 31: amendments No. 396, 552, 29 and 228;

New clause 31A: Amendment No. 553;

Clause 33: amendment No 64;

[Mr. Deputy-Speaker]

Clause 34: amendments Nos. 65 and 519;

Clause 35: amendments Nos. 485, 554, 326, 67, 271, 555, 556, 557, 558, 559, 560, 561, 9, 562, 574, 563, 534, 326, 272 and 565;

Clause 36: amendment No. 301;

New Clause 36A: amendment No. 400;

New Clause 37A: amendment No. 331.

Clause 26

Pandit Thakur Das Bhargava: I beg to move:

In page 8, lines 6 to 8, *omit* "and shall be signed by the complainant and the witnesses".

Clause 28

Shri Sadhan Gupta: I beg to move:

(1) In page 8, *after* line 17, *insert*:

"Provided that any Magistrate, before whom a trial is held may at any time, after recording his reasons for so doing, permit the complainant to examine any witness whose name does not appear in the said list:

Provided further that the complainant shall not be so permitted unless it was impossible for him, in spite of exercise of due care and diligence, to include the name of any such witness in the said list."

(2) In page 8, line 20, *add* at the end:

"and of all statements recorded under section 200."

Shri R. D. Misra: I beg to move:

(1) In page 8, *after* line 20, *add*:

"(1C) In any proceeding whether instituted on complaint or on police report regarding offences punishable with imprisonment not exceeding one year or fine or both, if the Magistrate is of the opinion that the offence is of a trivial nature and the accused does not deserve to be punished with a fine exceeding fifty rupees he may pass a conditional order of fine as he may think proper to meet the ends of justice, and give option to the accused either to remit such amount of fine to the Court as mentioned in the summons or appear before the Court to stand his trial on the date fixed for it in the summons. If the accused remits such amount of fine on or before the date of hearing of the case, the case shall be disposed of as if the accused pleaded guilty and convicted for the offence"

(2) In page 8, *after* line 20, *add*:

"(1C) In a proceeding instituted upon a complaint it shall not be necessary for a complainant to be present on every date fixed for hearing during the trial or inquiry, if he is represented by a pleader, but the Magistrate inquiring into or trying the case may in his discretion, direct the personal attendance of the complainant for the purpose of examination, cross-examination or re-examination or for showing cause under section 250, and if necessary, enforce such attendance in the manner hereinbefore provided."

Clause 29

Pandit Thakur Das Bhargava: I beg to move:

In pages 8 to 11, *for* clause 29, *substitute*:

"29. *Substitution of new sections for sections 207 in Act V of 1898.*—For section 207 of the principal Act, the following sections shall be substituted, namely:—

'207. *Procedure in inquiries preparatory to commitment.*—In every inquiry before a Magistrate where the case is triable exclusively by a Court of Session or High Court, or, in the opinion of the Magistrate, ought to be tried by such Court, the Magistrate shall,—

(a) in any proceeding instituted on a police report, follow the procedure specified in section 207A; and

(b) in any other proceeding, follow the procedure specified in the other provisions of this Chapter.

207A. *Procedure to be adopted in proceedings instituted on police report.*—(1) In any proceeding instituted on a police report the Magistrate shall, when the accused appears or is brought before him, satisfy himself that all documents referred to in section 173 have been furnished to the accused, and if he finds that any such document has not been so furnished he shall cause the same to be furnished to the accused.

(2) The Magistrate shall peruse all the documents relevant to the case and he shall decide whether the accused should be committed for trial or should be tried before himself or some other Magistrate and he shall proceed accordingly.

(3) If, in the opinion of the Magistrate, the accused should be committed for trial, he shall prepare a draft charge indicating what offence the accused is alleged to have committed and make an order committing the accused for trial by the High Court or the Court of Session as the case may be.

(4) As soon as such draft charge has been prepared, it shall be read and explained to the accused, and a copy thereof shall be given to him free of cost.

(5) The accused shall be required at once to give in orally or in writing, a tentative list of the persons, if any, whom he wishes to be summoned to give evidence on his trial:

Provided that the Magistrate may, in his discretion, allow the accused to give in his list or any further list of witnesses at a subsequent time; and, where the accused is committed for trial before the High Court, nothing in this sub-section shall be deemed to preclude the accused from giving, at any time before his trial, to the clerk of the State a further list of the persons whom he wishes to be summoned to give evidence on such trial.

(6) When the accused has been committed for trial, the Magistrate shall summon the complainant and the witnesses for the prosecution and defence to appear before the Court to which the accused has been committed:

Provided that, where the accused has been committed to the High Court, the Magistrate may, in his discretion, leave such witnesses to be summoned by the clerk of the State and such witnesses may be summoned accordingly:

Provided further that if the Magistrate thinks that any witness is included in the list given by the accused for the purpose of vexation or delay, or for defeating the ends of justice, the Magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and, if he is not so satisfied, may refuse to summon the witness (recording his reasons for such refusal), or may, before summoning him, require such sum to be deposited as such Magistrate thinks necessary to de-

[Pandit Thakur Das Bhargava]

fray the expense of obtaining the attendance of the witness and all other proper expenses.

(7) When the accused is committed for trial, the Magistrate shall issue an order to such person as may be appointed by the State Government in this behalf, notifying the commitment, and stating the offence in the same form as the draft charge; and shall send the draft charge, the record of the inquiry and any weapon or other thing which is to be produced in evidence, to the Court of Session or where the commitment is made to the High Court, to the clerk of the State or other officer appointed in this behalf by the High Court.

(8) When the commitment is made to the High Court and any part of the record is not in English, an English translation of such part shall be forwarded with the record.

(9) Until and during the trial. the Magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused by warrant to custody'."

Shri R. D. Misra: I beg to move:

In pages 8 and 9, *for* lines 24 to 47 and lines 1 to 3 respectively, *substitute*:

"207. *Procedure in inquiries preparatory to commitment.*—The following procedure shall be adopted in inquiries before Magistrates where the case is exclusively triable by a Court of Session or High Court, or in the opinion of the Magistrate ought to be tried by such Court.

207A. *Procedure to be adopted in commitment proceedings.*—(1) (a) When in any proceeding on a police report, the Magistrate receives the report forwarded under section 173 he shall for the purpose of holding an inquiry under this section fix a date which shall be a date not later than fourteen days from the date of the receipt of the report, unless the Magistrate for reasons to be recorded, fixes any later date.

(b) When in any proceeding instituted on a complaint or otherwise, the Magistrate orders the issue of a process for the attendance of the accused under section 204, he shall for the purpose of holding an inquiry under this section, fix a date not later than fourteen days from the date of such order, unless the Magistrate for reasons to be recorded, fixes any later date, and no process shall be issued unless the complainant files a list of witnesses in the Court.

(2) If at any time before such date, the officer conducting the prosecution, or the complainant or his pleader applies to the Magistrate to issue a process to compel the attendance of any witness or the production of any document or thing, the Magistrate shall issue such process unless, for reasons to be recorded, he deems it unnecessary to do so.

(3) At the commencement of the inquiry, the Magistrate shall, when the accused appears or is brought before him, satisfy himself that the documents referred to in section 173 in police cases, and the copies of the complaint, of statements of the complainant and of witnesses recorded under section 200 and section 202 by a Magistrate or police-officer, of first information report, if any, and of all other documents or relevant extracts thereof on which the complainant proposes to rely,

have been furnished to the accused, and if he finds that the accused has not been furnished with such documents or any of them, he shall cause the same to be furnised."

Shri Mulchand Dube (Farrukhabad Distt.—North): I beg to move:

In page 8, line 38, *for* "fourteen days" *substitute* "twenty-one days".

Shri Sadhan Gupta: I beg to move:

In page 8, line 38, *after* "fourteen days" *insert* "and not earlier than seven days;"

Shri Mulchand Dube: I beg to move:

In page 8, line 38, *for* "of the receipt of the report" *substitute* "of the delivery to the accused of the report and the documents referred to in sub-section (4) of section 173".

Shri Sadhan Gupta: I beg to move:

In page 8, line 41, *after* "prosecution" *insert* "or any accused person;"

Pandit Thakur Das Bhargava: I beg to move:

In page 9, line 1, *after* "accused" *insert* "ten days or at least a week before".

Shri M. L. Agarwal (Pillbhit Distt. *cum* Bareilly Distt.-East): I beg to move:

In page 9, line 3, *add* at the end:

"and postpone the holding of the inquiry to a date not earlier than seven days after the furnishing of all such documents to the accused."

Pandit Thakur Das Bhargava: I beg to move:

In page 9, line 3, *add* at the end:

"and adjourn the inquiry for at least seven days."

Shri Mulchand Dube: I beg to move:

In page 9, line 3, *add* at the end:

"and in the latter case postpone recording of statements of persons referred to in sub-section (4) for ten days."

Shri Sadhan Gupta: I beg to move:

In page 9, line 3, *add* at the end:

"and shall, if requested by any accused person so to do, adjourn the inquiry for such period, not exceeding seven days, as such accused person may desire, unless he deems it just to adjourn it for a longer period."

Shri Sadhan Gupta: I beg to move:

In page 9, line 5, *omit* "if any".

Pandit Thakur Das Bhargava: I beg to move:

In page 9, lines 5 and 6, *for* "produced by the prosecution" *substitute* "alleged by and whom the prosecution wishes to be produced at the trial."

Shri Sadhan Gupta: I beg to move:

In page 9, lines 6 to 13, *omit*:

"to the actual commission of the offence alleged; and if the Magistrate is of opinion that it is necessary in the interests of justice to record the statements of any one or more of the other witnesses for the prosecution, he may record such statements also:

Provided that no statement shall be recorded under this sub-section of any person whose statement has already been recorded under section 164."

Shri M. L. Agarwal: I beg to move:

In page 9, line 7, *after* "alleged" *insert* "or to the circumstances connecting the accused therewith."

Pandit Thakur Das Bhargava: I beg to move:

In page 9, line 9, *after* "prosecution" *insert*:

> "or of any other person whether cited by the prosecution or defence, or not".

Shri Mulchand Dube: I beg to move:

(1) In page 9, line 10, *add* at the end:

> "and in case the offence is to be proved by circumstantial evidence only, also the statements of persons who can speak about the circumstances from which an inference of guilt is to be drawn".

(2) In page 9, line 10, *add* at the end:

> "Copies of the statements recorded under this sub-section shall be given to the accused free of cost".

Shri Dabhi: I beg to move:

(1) In page 9, *omit* lines 11 to 13.

Pandit Thakur Das Bhargava: I beg to move:

(1) In page 9, *omit* lines 11 to 13.

(2) In page 9, *omit* lines 14 to 17.

Shri Sadhan Gupta: I beg to move:

In page 9, *for* lines 14 to 17, *substitute*:

> "(5) The accused shall be at liberty to cross-examine the witnesses for the prosecution and in such case the prosecutor may re-examine them".

Shri N. S. Jain: I beg to move:

In page 9, *for* lines 14 to 17, *substitute*:

> "(5) The accused shall be allowed to cross-examine such witnesses but only to such extent as the Magistrate may consider it necessary at that stage in the interest of justice."

Shri Dabhi: I beg to move:

In page 9, line 14, *omit* "not".

Shri M. L. Agarwal: I beg to move:

In page 9, line 14, *omit* "not".

Shri Dabhi: I beg to move:

In page 9, line 14, *for* "put questions to" *substitute* "cross-examine".

Shri M. L. Agarwal: I beg to move:

In page 9, line 15, *after* "witness" *insert*:

> "and to raise all legal objections in his interest when the prosecution witnesses are being produced or their statements recorded by the magistrate under sub-section (4)".

Shri Tek Chand: I beg to move:

In page 9, *after* line 17, *add*:

> "Provided that the accused will be at liberty to object to questions put or to answers recorded on the ground that they contravene the provisions of Indian Evidence Act, 1872 (Act I of 1872) or of any other laws, and such objections will, if not sustained, be noted on the recorded."

Shri Sadhan Gupta: I beg to move:

In page 9, *for* lines 18 to 27, *substitute*:

> "(6) When the statements referred to in sub-section (4) have been recorded and the Magistrate has, if necessary, examined the accused for the purpose of enabling him to explain any circumstances appearing in the said statements against him, the Magistrate shall, if he finds that there are not sufficient grounds for committing the accused person for trial, record his reasons and discharge him, unless it appears to the Magistrate that such person should be tried before himself or some other Magistrate, in which case he shall proceed accordingly.

"(6A) Nothing in this section shall be demand to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless."

Shri N. S. Jain: I beg to move:

In page 9, lines 20 and 21, *after* "examined the accused" *insert* "for the purpose of enabling him to explain any circumstances appearing in the evidence against him".

Shri Sadhan Gupta: I beg to move:

In page 9, lines 20 and 21, *after* "examined the accused" *insert* "for the purpose of enabling him to explain any circumstances appearing in the evidence against him."

Pandit Thakur Das Bhargava: I beg to move:

(1) In page 9, line 21, *after* "accused" where it occurs for the first time, *insert* "to explain the circumstances which in the opinion of the Magistrate require explanation".

(2) In page 9, line 23, *after* "no" *insert* "sufficient".

Shri Sadhan Gupta: I beg to move:

In page 9, *for* lines 28 to 33, *substitute*:

"(7) When, upon such statements being recorded, such examination, if any, being made and the prosecution and the accused being given an opportunity of being heard, the Magistrate is of opinion that the accused should be committed for trial, he shall frame a chrage under his hand, declaring with what offence the accused is charged."

Pandit Thakur Das Bhargava: I beg to move:

In page 9, lines 31 and 32, *for* "the accused should be committed for trial" *substitute* "there are sufficient grounds for commitment of the accused".

Shri Dabhi: I beg to move:

In page 9, line 37, *for* "at once" *substitute* "within three days".

Shri M. L. Agarwal: I beg to move:

In page 9, line 39, *add* at the end:

"and if he is not ready with the required list at once he shall be allowed to do so within a week".

Pandit Thakur Das Bhargava: I beg to move:

In page 9, line 39, *add* at the end:

"within a period of ten days of the order".

Shri Sadhan Gupta: I beg to move:

(1) In page 9, *after* line 46, *insert*:

"(9A) The Magistrate may, in his discretion, summon and examine any witness named in any list given to him under sub-section (9)."

(2) In page 9, line 49, *after* "such list" *insert*:

"and the witness if any, included therein, whom the Magistrate desires to examine, have been summoned and examined under sub-section (9A)".

(3) In page 9, *after* line 52, *insert*:

"(10A) If the Magistrate, after hearing the witnesses for the defence, is satisfied that there are not sufficient grounds for committing the accused, he may cancel the charge and discharge the accused.

(10B) A commitment once made under sub-section (10) by a competent Magistrate can be quashed by the High Court only and only on a point of law."

(4) In page 10, line 3, *for* "the witnesses included in the list" *substitute* "such witnesses included in the list, as have not appeared before himself".

(5) In page 10, *omit* lines 5 to 18.

Pandit Thakur Das Bhargava: I beg to move:

In page 10, *after* line 18, *add*:

"(11A) The Magistrate shall record the statements of the witnesses whose names have been given in the list under sub-clause 9 and when the accused desires to be examined at that stage".

Shri Sadhan Gupta: I beg to move:

(1) In page 10, line 19, *after* "prosecution" *insert* "and defence".

(2) In page 10, *omit* lines 39 to 41.

Pandit Thakur Das Bhargava: I beg to move:

In pages 10 and 11, *omit* lines 45 to 49 and 1 to 2 respectively.

Shri Mulchand Dube: I beg to move:

In pages 10 and 11, *omit* lines 45 to 49 and lines 1 and 2 respectively.

Shri Sadhan Gupta: I beg to move:

In pages 10 and 11, *omit* lines 45 to 49 and lines 1 and 2 respectively.

Shri N. S. Jain: I beg to move:

In page 10, *for* lines 45 to 49 *substitute*:

"(17) The enquiry shall be commenced only when all the accused are present either personally or through their counsels and all the prosecution witnesses are also present and when so commenced it shall go on from day to day without any adjournment except for exceptional reasons to be recorded in writing by the Magistrate. But in no case more than one adjournment shall be so allowed.

(18) The provisions of section 219 shall not apply to this inquiry and no witness who has not been examined under sub-section (4) of this section shall be examined by the prosecution in the trial before the Sessions Court unless the court holds that no prejudice would be thereby caused to the accused."

Shri Dabhi: I beg to move:

In page 11, lines 1 and 2, *omit* "and the inquiry shall not, in any case, be postponed or adjourned more than once".

Shri Dabhi: I beg to move:

In page 11, *after* line 2, *add*:

"Provided that when any such witness is absent the court may presume that the evidence of such witness, if examined, would have been unfavourable to the prosecution."

Shri Datar: I beg to move:

(1) In page 9, *for* lines 4 to 13, *substitute*:

"(4) The Magistrate shall then proceed to take the evidence of such persons, if any, as may be produced by the prosecution as witnesses to the actual commission of the offence alleged; and if the Magistrate is of opinion that it is necessary in the interests of justice to take the evidence of any one or more of the other witnesses for the prosecution, he may take such evidence also:

Provided that no such evidence shall be taken under this subsection of any person whose statement has already been recorded under section 164."

(2) In page 9, *for* lines 14 to 17, *substitute*:

"(5) The accused shall be at liberty to cross-examine the witnesses examined under sub-section (4), and in such case, the prosecutor may re-examine them."

(3) In page 9, lines 18 to 19, *for* "When the statements, if any have been recorded under sub-section (4)" *substitute*:

"When the evidence referred to in sub-section (4) has been taken".

(4) In page 9, line 23, *for* "statement" *substitute* "evidence".

(5) In page 9, line 28, *for* "such statements being recorded" *substitute*:

"such evidence being taken".

(6) In the pages 10 and 11, *omit* lines 45 to 49 and lines 1 and 2 respectively.

Clause 30

Shri R. D. Misra: I beg to move:

In page 11, *for* clause 30, *substitute*:

"30. *Omission of section* 208 *in Act V of* 1898.—Section 208 of the principal Act shall be omitted."

Pandit Thakur Das Bhargava: I beg to move:

In page 11, *for* clause 30, *substitute*:

"30. *Substitution of new section for sections* 208 *to* 220 *in Act V of* 1898.—For sections 208 to 220 of the principal Act, the following section shall be substituted namely:—

'208. (1) When it appears from a police report that the offence is one triable exclusively by a Court of Sessions or one which in the opinion of the Magistrate ought to be tried by such Court, the Magistrate shall on perusal of the police report or when the accused appears or is brought before him make over the case to the Sessions Court having jurisdiction and shall forward the accused to its custody and shall send all police reports relating to the Court and that Court shall thereupon proceed with the trial.

(2) Complaints in respect of offences triable exclusively by Court of Sessions may be preferred directly to the Court of Sessions and the procedure relating to the trial of warrant cases shall apply in respect of such complaints'."

Clause 31

Pandit Thakur Das Bhargava: I beg to move:

In page 11, *for* clause 31, *substitute*:

"31. *Omission of section* 209 *in Act V of* 1898.—Section 209 of the principal Act shall be omitted."

Shri R. D. Misra: I beg to move:

In page 11, *for* clause 31, *substitute*:

"31. *Omission of section* 209 *in Act V of* 1898.—Section 209 of the principal Act shall be omitted."

Shri Dabhi: I beg to move:

In page 11,

(i) line 8, *after* "the principal Act" *insert* "(a)"; and

(ii) *after* line 10, *insert*:

"(b) the following proviso shall be added, namely:—

'Provided that such examination of the accused shall not be of the nature of a cross-examination'."

Shri M. L. Agrawal: I beg to move:

In page 11, line 10, *add* at the end·

'and the following proviso shall be added, namely:—

'Provided that the examination of the accused shall not be in the nature of cross-examination'."

New Clause 31A

Shri R. D. Misra: I beg to move:

In page 11, *after* line 11, *insert*:

"31A. *Omission of sections* 210, 211, 212, 213, 214, 215, 216, 217. 218, 219 *and* 220 *in Act V of* 1898.—Sections 210, 211, 212, 213, 214, 215, 216, 217, 218, 219

[Shri R. D. Misra]

and 220 of the principal Act shall be omitted."

Clause 33

Shri R. D. Misra: I beg to move:

In page 11, *for* lines 21 to 24 *substitute*:

"Provided that where the complainant is represented by a pleader and he is present on his behalf the Magistrate shall not dismiss the complaint and proceed with the case in case the presence of the complainant is not necessary for recording his statement or for cross-examination."

Clause 34

Shri M. L. Agrawal: I beg to move:

In page 11, line 25,

(i) *after* 'Act V of 1898', *insert*:

"(a) In sub-sections (1) and (2) of section 250 of the principal Act for the words 'false and either frivolous or vexatious' the words 'false or frivolous or vexatious and' 'shall be substituted;" and

(ii) *before* "In sub-section (2)" *insert* "(b)".

Shri Sadhan Gupta: I beg to move:

In page 11, line 28, *for* "one-half" *substitute* "one-tenth".

Clause 35

Shri R. D. Misra: I beg to move:

(1) In page 11, *for* lines 33 to 46, *substitute*:

"251. *Procedure in warrant cases.*—The following procedure shall be observed by a Magistrate in the trial of warrant cases.

251A. *Procedure to be adopted in cases instituted on police report.*—(1) (a) When in any case instituted on a police report the Magistrate receives the report forwarded under section 173, he shall for holding a trial under this section fix a date which shall be a date not later than fourteen days from the date of the receipt of the report, unless the Magistrate for reasons to be recorded, fixes any later date.

(b) When in any proceeding instituted on a complaint or otherwise, the Magistrate orders the issue of a process for the attendance of the accused under section 204, he shall for the purpose of holding a trial under this section fix a date not later than fourteen days from the date of such order, unless the Magistrate, for the reasons to be recorded, fixes any later date, and no process for the attendance of the accused shall be issued unless the complainant files a list of his witnesses in the Court.

(c) When the accused appears or is brought before a Magistrate at the commencement of the trial, such Magistrate shall satisfy himself that the documents referred to in section 173 in police cases, and the copies of the complaint, statement of the complainant and of the witnesses recorded under section 200 and section 202 in complaint cases have been furnished to the accused, and if he finds that the accused has not been furnished with such documents or any of them, he shall cause them to be so furnished."

(2) In page 11, *for* lines 33 to 38, *substitute*:

"251. *Procedure in police cases.*—In the trial of cases, whether summons or warrant, initiated on police report, the following procedure shall be observed by Magistrates and in any other, the procedure specified in other provisions of this Chapter and Chapter XX shall be followed."

Shri Mulchand Dube: I beg to move:

In page 11, line 44, *after* "the accused" *insert* "at least ten days before that day".

Shri M. L. Agrawal: I beg to move:

In page 11, line 46, *add* at the end:

"and the trial shall be postponed to a date not earlier than seven days after furnishing of such documents to the accused."

Shri Mulchand Dube: I beg to move:

In page 11, line 46, *add* at the end:

"and in the latter case postpone the proceedings for ten days."

Shri Sadhan Gupta: I beg to move:

(1) In page 11, line 46, *add* at the end:

"and shall, if requested by any accused person so to do, adjourn the inquiry for such period not exceeding fourteen days as such accused person may desire, unless he deems it just to adjourn it for a longer period at the request of any accused person".

(2) In page 11, *for* lines 47 to 52, *substitute*:

"(2) When in any such case the accused appears or is brought before such Magistrate and such Magistrate has satisfied himself that the documents referred to in section 173 have been furnished or has caused such documents to be furnished or if such Magistrate has adjourned the trial to some other date, on such date, such Magistrate shall proceed to take evidence as may be produced in support of the prosecution.

(2A) The Magistrate shall ascertain from the report under section 173 the names of any persons likely to be acquainted with the facts of the case and to be able to give evidence for the prosecution and shall summon to give evidence before himself such of them as he thinks necessary.

(2B) If, upon taking all the evidence referred to in sub-sections (2) and (2A), and making such examination, if any, of the accused as the Magistrate thinks necessary for the purpose of enabling the accused to explain any circumstances appearing in evidence against him and after giving the prosecution and the accused an opportunity of being heard, the Magistrate finds that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.

(2C) Nothing in sub-section (2B) shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless."

(3) In page 11, line 49, *after* "thinks necessary" *insert* "for the purpose of enabling him to explain any circumstances appearing in evidence against him".

(4) In page 12, line 1, *for* "such documents, being considered" *substitute* "such evidence having been taken".

(5) In page 12, lines 10 and 11, *for* "claims to be tried" *substitute* "has any defence to make".

(6) In page 12, *for* lines 14 to 19, *substitute*:

"(6) If the accused refuses to plead, or does not plead, or claims to be tried, he shall be required to state, at the commencement of the next hearing of the case or, if the Magistrate for reasons to be recorded in writing so thinks forthwith, whether he wishes to cross-examine any, and, if so, which, of the witnesses for the prosecution whose evidence has been taken. If he says he does so

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wish, the witnesses named by him shall be recalled and, after cross-examination and re-examination, if any, they shall be discharged. The evidence of any remaining witnesses for the prosecution whose names appear in the report under section 173 shall next be taken, and, after cross-examination and re-examination, if any, they also shall be discharged."

(7) In page 12, line 16, *add* at the end:

"which shall be ten days or less after the order by which such date is fixed, according to the desire of any accused person appearing before him unless at the request of any such accused person, the Magistrate deems it just to fix a later date".

Shri Dabhi: I beg to move:

In page 12, *after* line 19, *add*:

"Provided that the Magistrate may, for reasons to be recorded in writing, permit the cross-examination of any witness or witnesses to be deferred until any other witness or witnesses have been examined, or recall any witness or witnesses for further cross-examination."

Shri Sadhan Gupta: I beg to move:

(i) In page 12, *for* lines 23 to 31, *substitute*:

"(9) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination, or the production of any document or other thing, the Magistrate shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. Such ground shall be recorded by him in writing:

Provided that, when the accused has cross-examined or had the opportunity of cross-examining any witness after the charge is framed, the attendance of such witness shall not be compelled under this section, unless the Magistrate is satisfied that it is necessary for the purpose of justice."

(2) In page 12, lines 25 and 26, *omit* "(other than a witness already examined)".

(3) In page 12, line 26, *after* "examination" *insert* "or cross-examination".

Shri Mulchand Dube: I beg to move:

(1) In page 12, *after* line 31, *add*:

"*Explanation*.—The word 'document' in this sub-section shall include the original record of any Civil, Criminal or Revenue Court or office or of any public office or local authority or Registration Department."

(2) In page 12, *after* line 31, *add*:

"(9A) If during the course of the trial the charge is altered or amended substantially, the accused shall be entitled to have the witness recalled for further cross-examination."

Shri Sadhan Gupta: I beg to move:

In page 12, line 33, *for* "sub-section (1)" *substitute* "sub-section (9)".

Clause 36

Shri N. S. Jain: I beg to move:

In page 13, *for* clause 36 *substitute*:

"36. *Amendment of section* 252, *Act V of* 1898.—In section 252 of the principal Act,—

(a) to sub-section (1), the following further proviso shall be added, namely:—

'Provided further that the Magistrate may permit only such cross-examination of the prosecution witnesses at this stage as he may deem necessary in the interest of justice.';

(b) after sub-section (1), the following new sub-section shall be inserted, namely:—

'(1A) In any proceeding instituted on a police report, the Magistrate shall before commencing the trial under sub-section (1), satisfy himself that all the documents referred to in section 173 have been furnished to the accused and if he finds that any such document has not been so furnished he shall cause the same to be furnished to the accused.'; and

(c) in sub-section (2), before the words 'The Magistrate' the words 'In any proceeding instituted on a private complaint' shall be inserted."

New Clause 36A

Pandit Thakur Das Bhargava: I beg to move:

In page 13, *after* line 5, *insert*:

"36A. *Amendment of section* 256, *Act V of* 1898.—For sub-section (1) of section 256 of the principal Act, the following sub-section shall be substituted, namely:—

'(1) If the accused refuses to plead, or does not plead or claims to be tried, he shall be required to state at the commencement of the next hearing of the case whether he wishes to cross-examine any and if so which of the witnesses for the prosecution where evidence has been taken. If he says he does so wish, the Court shall allow further cross-examination of such witnesses and the witnesses shall be recalled and after such further cross-examination and re-examination, if any, they shall be discharged and the accused shall then be called upon to enter upon his defence and produce his evidence'."

New Clause 37A

Shri Mulchand Dube: I beg to move: In page 13, *after* line 11, *insert*:

"37A. *Amendment of section* 263, *Act V of* 1898.—In section 263 of the principal Act, for the words 'In cases where no appeal lies, the Magistrate or Bench or Magistrates need not record the evidence of the witnesses or frame a formal charge; but he or they shall enter in such form as the State Government may direct the following particulars' the following shall be substituted, namely:—

'In cases tried summarily the Magistrate or Bench need not frame a formal charge and may record only a substance of the statement of each witness which shall form part of the record. But he or they shall enter in such form as the State Government may direct the following particulars'."

Clause 29

Shri N. S. Jain: I beg to move:

In the amendment proposed by Shri Balwant Nagesh Datar, printed as No. 545 in List No. 22 of Amendments, *omit* the proposed proviso to sub-section (4).

Clause 35

Shri N. S. Jain: I beg to move:

In page 12, *for* lines 23 to 31, *substitute*:

"(9) If the accused, after he has entered upon his defence, applies to the Magistrate to issue any process for compelling the attendance of any witness for the purpose of examination or cross-examination or the production of any document or other thing, the Magistrate

[Shri N. S. Jain]

shall issue such process unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. Such grounds shall be recorded by him in writing."

Shri S. V. Ramaswamy (Salem): May we have a consolidated list tomorrow?

Mr. Deputy-Speaker: Yes.

The Lok Sabha then adjourned till 11 of the Clock on Wednesday, the 1st December, 1954.

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